THE RETAILER

SUMMER 2016

THE THREAT OF CYBERCRIME

- // THE DAWN OF POST-MODERN RETAILING
- // WHAT RISKS ARE RETAILERS MOST CONCERNED ABOUT?
- // DEALING WITH THE COST OF THE NATIONAL LIVING WAGE
- // ETHICS IN RETAIL
- // FIGHT BREXIT UNCERTAINTY BY GETTING ON WITH BUSINESS AS USUAL

“IT HAS BEEN SAID THAT THERE ARE ONLY TWO TYPES OF COMPANIES: THOSE THAT HAVE BEEN HACKED AND THOSE THAT WILL BE. BEARING THIS IN MIND, OUR AIM IS TO HELP MAKE ONLINE SAFER FOR BUSINESSES...”

A NOTE FROM REBECCA

Welcome to the Summer issue of The Retailer!

In this issue we are focusing on cyber-crime, a threat that is increasingly becoming a major concern for retailers.

At the BRC, we are constantly keeping abreast of major risks and concerns, and with crime now going online, millions of Brits each year are having their personal data hacked. This is increasingly affecting businesses as well, with many people calling it the 'invisible war'.

With a rapid change in the way we live, with life now online, we also have to respond to these changing threats quickly. At the BRC, we are working on research and advice to counter this threat, which is discussed in our feature article by Hugo Rosemont, our Policy Advisor on Security, Risk and Safety.

We also have several articles from Associate members that hone in on this issue, and analyse it from various standpoints. It has been said that there are only two types of companies: those that have been hacked and those that will be. Bearing this in mind, our aim is to help make online safer for businesses, making people aware of what measures they can take to protect themselves.

Also in this issue, we have a range of pieces from members concerning the role of technology, customer based topics, and other retail news. We hope you like our new look and feel and find this issue to be an engaging read, bringing you relevant news from the retail sector.

THIS ISSUE

BROUGHT TO YOU BY

BRC

NEWS FROM THE BRC

BOOST FOR BUDGETS AS FOOD PRICES FALL

- Overall shop prices reported deflation of 2.0% in June, deepening from the 1.8% decline in May. This is lower than the 12-month average of 1.8%.
- Non-food deflation fell to 2.8% in June from 2.7% in May.
- Food deflation deepened further in June, falling to 0.8% from 0.3% in May. This was driven by both sub-categories which reported lower inflation than May's numbers.
- Fresh Food reported a further acceleration in its deflation rate, falling to 1.5% from 0.8% in May. This is the deepest deflation rate since September 2015.
- Ambient Food inflation decelerated to 0.1% in June from 0.4% in May. This is the lowest ambient rate for 14 months and is significantly lower than the 12-month average rate of 0.8%.

Helen Dickinson OBE, Chief Executive, British Retail Consortium said "this month's figures show overall shop prices falling once again. This extraordinary 38 month run of deflation has undoubtedly been good for consumers. While it has been driven largely by falling prices for non-food items we have, from time-to-time, seen food in deflationary territory as well – which provides the real boon for household budgets. June was one of those months with food prices falling by 0.8 per cent, the deepest deflation in food for over a year.

"While the good news for household budgets continues, prices in store will eventually rise again. However, the time it takes for any price increases to make a re-appearance will depend on a combination of factors including the future value of the pound, commodity prices and any eventual impact of last week's Brexit vote on input costs. That said, there won't be any instant shocks as any changes will take time to feed through. Continuing fierce competition also means that putting up prices may not be viable for some retailers. For now, and for the short term at least, the good news for consumers is set to continue."

Mike Watkins, Head of Retailer and Business Insight at Nielsen said "whilst changes in the economic landscape are anticipated next year, the current focus for the industry is the continued deflationary environment. This is good news for shoppers who benefit from falling prices but is added pressure for retailers as they balance increased costs from the national living wage and investment in multi-channel, with volatile consumer demand. A return to inflation is not expected just yet so it`s business as usual over the summer months and encouraging shoppers to keep spending is the priority."

EUROPEAN MARKET INCREASINGLY IMPORTANT FOR BRAND BRITAIN

- Total retail search volumes grew 52% in the first quarter of 2016 compared with the same quarter a year ago.
- Search volumes on mobile devices increased 50% in the first quarter of 2016 compared with the same quarter a year ago.
- Beauty was the most searched sector by EU consumers on mobile devices, reporting growth of 91% in Q1 2016.
- Department Stores was also a popular sector for EU consumers on mobile devices, increasing 75% in Q1 2016.
- The Czech Republic demonstrated the strongest appetite for UK retailers, reporting a 256% increase on mobile devices in the first quarter of 2016.

Helen Dickinson OBE, BRC Chief Executive, said:
"Today's figures provide further evidence that the EU is an increasingly important market for UK retailers.

With 14 EU countries reporting over 100% growth in searches on mobile devices, not only is interest in UK retail growing steadily on the continent, EU consumers are also far more likely to be experiencing the British retail offer through their smartphones.

This impressive mobile interest sits alongside a healthy double-digit increase in total searches across all devices in all but one EU Member State (Estonia).

The desire for UK retail products is especially strong in the beauty sector and searches for British department stores are also very high – likely due to the UK being the home to some of the most recognisable department store brands in the world. In all, the strength and popularity of UK retail beyond our own borders shows little sign of diminishing."

WHAT YOU CAN EXPECT AT THIS YEAR'S ANNUAL RETAIL INDUSTRY DINNER

AFIRI BEREDUGO
PRODUCT MARKETING EXECUTIVE
BRITISH RETAIL CONSORTIUM

Join us at the prestigious BRC Annual Retail Industry Dinner to celebrate the retail sector over the past year. This must-attend event takes place on Wednesday 21st September 2016 at the magnificent Grosvenor House Hotel, Park Lane London.

The dinner regularly attracts over 1,000 senior retail professionals including CEOs, Directors, Chairmans, Managing Directors and many more. The 2015 dinner was a resounding success including all of the top 10 retailers in attendance and this year is set to be our biggest yet. This distinguished event provides an excellent opportunity to entertain valued colleagues, existing clients, network with prospective customers and generate new business contacts.

The evening includes a delicious four course meal with fine wine and a charity raffle featuring exciting prizes donated by our retail members. We are delighted to confirm Katherine Ryan, Canadian comedian, writer and actress as the after-dinner entertainment, guaranteeing you a laugh a minute from your seat. You will also have the chance to join fellow guests in the bar and try your luck at the casino tables.

At this year's event, the BRC will be launching Retail 2020: Solutions; the third and final edition of the BRC's much publicised research.

The Annual Retail Industry Dinner is the best connected event in the retail calendar and an occasion not to be missed.

There are exclusive rates for BRC members for a limited time only, to book your place email events@brc.org.uk

To find out more about the Annual Retail Industry Dinner visit www.retaildinner.co.uk.

NEW EVENT FOR 2016

BRAND PROTECTION CONFERENCE
5 OCTOBER 2016
THE VOX CONFERENCE CENTRE, BIRMINGHAM

We are pleased to announce an exciting new event called Brand Protection Conference taking place on the 5th October 2016. This conference will provide the latest updates on managing risks in the food sector, protecting brand image, public perception and risk management. Adam Shaw, award winning financial reporter and presenter, will act as conference chair for this event.

For further information and to book your place visit www.brcevents.com.

FIGHT BREXIT UNCERTAINTY BY GETTING ON WITH BUSINESS AS USUAL

HELEN DICKINSON
CHIEF EXECUTIVE OBE
BRITISH RETAIL CONSORTIUM

Someone said to me the other day that anyone claiming to be able to predict the path of British politics has been proved, by events over the past few weeks, to be either a liar or a fool. I certainly appreciate the sentiment. We are living through an incredibly uncertain time and it seems that the ballots cast on that otherwise unremarkable Thursday in late June have changed everything.

Well it might seem that way, but in truth, beyond the end of some political careers, not so much has actually changed. The referendum vote itself has not changed the intensity of competition in the market, the relentless pursuit of delivering for customers day in, day out, or the ongoing structural change in the industry driven by digital and technology.

The terms under which retailers do business and, crucially, customers should see little, if any, difference in the shops until the UK actually leaves the EU. Yes, the pound has fallen and this will make imports more expensive.

However, the time it takes for any input price increases to make a re-appearance will depend on a combination of factors, including further changes in the pound, commodity prices, and the ability of retailers to move pricing given that intensity of competition. So, there won't be any instant shocks as any changes would take time to feed through.

For these reasons, it is incumbent on us all to keep a level head in this intervening period so as not to unduly alarm customers, colleagues or investors. Maintaining consumer confidence is vital – without it a recession will become a self-fulfilling prophecy – let's not talk ourselves into it. We had a great retail industry on the 22nd of June, we have a great retail industry today and we will continue to have a great industry tomorrow.

The Government has some reassurance of its own to be doing, too. UK retailing employs around 120,000 EU nationals, each of whom make a hugely valued contribution to the success of retail businesses up and down the country.

We want to see them continue that contribution and the Government should lose no time in reassuring our people, wherever they may come from, that their right to work here will continue.

There is a job underway in thinking about what we, as an industry, want life outside the EU to look like. In any Brexit negotiations the BRC will be encouraging the Government to aim for an outcome that avoids new costs or restrictions on goods that are traded within the EU. We also know there will be opportunities to further improve the UK's trading relationship with other non-EU countries and aim to persuade the Government to reduce or remove any unnecessary costs or barriers to those new trading opportunities.

The domestic agenda is crucial too. The economy in general, and retailing in particular, cannot afford for there to be a paralysis on the home front while decisions about our relationship with the wider world are made. We'll be pushing for clear priority to be given to those initiatives that will enhance the competitiveness of UK businesses and for programmes that are in train that do not achieve this aim to be paused or scrapped altogether.
So, while nothing will have changed by the time this edition of The Retailer goes live, we're certainly facing an interesting, if uncertain, future.

Not wanting to be branded the liar or the fool, I won't make any predictions for the detail of what's to come. What I can say with certainty, however, is that the BRC is working hard to get the best out of whatever is next for the industry, enabling retailers to continue to offer great choice and value to customers, as well as keeping our members up-to-date with the latest developments every step of the way.

BRC AND GLASSGUARD RENEW THEIR PARTNERSHIP TO OFFER SAFER LIGHTING FOR THE FOOD INDUSTRY

AFIRI BEREDUGO
PRODUCT MARKETING EXECUTIVE
BRC GLOBAL STANDARDS

BRC GLOBAL STANDARDS AND GLASSGUARD ARE DELIGHTED TO HAVE RENEWED THEIR PARTNERSHIP FOR THE EIGHTH CONSECUTIVE YEAR. THIS PARTNERSHIP CONTINUES TO BE EXTREMELY BENEFICIAL TO MANY BRC GLOBAL STANDARDS CERTIFICATED SITES AROUND THE WORLD.

GlassGuard's lighting solutions are designed to meet all the requirements of food safety management systems and recognised Global Food Safety Initiative (GFSI) schemes.

They provide the necessary protection required to minimise the risk of glass contamination and assure food safety.

GlassGuard provides a comprehensive lighting design service for the food industry that ensures correct products and illumination levels are achieved. They also deliver lighting solutions that benefit all of our stakeholders, supported by first class customer service.

> "WE HAVE HAD A GREAT EIGHT YEARS COLLABORATING WITH GLASSGUARD AND WE ARE PLEASED TO CONTINUE THIS PARTNERSHIP FOR THE FORESEEABLE FUTURE. WORKING WITH GLASSGUARD ENSURES THAT BRC GLOBAL STANDARDS CERTIFICATED SITES HAVE ACCESS TO LIGHTING SOLUTIONS THAT REDUCE ENERGY COSTS, CONTROLS GLASS CONTAMINATION AND ADDS VALUE TO THEIR BUSINESS. THIS PARTNERSHIP WILL CONTINUE TO PROVIDE NUMEROUS BENEFITS TO OUR CERTIFICATED SITES."
>
> - MARK PROCTOR, CEO
> BRC GLOBAL STANDARDS

> "WORKING WITH THE BRC FOR THE LAST 8 YEARS HAS BEEN EXCELLENT AND WE ARE DELIGHTED TO CONTINUE THE PARTNERSHIP. UNDERSTANDING THE LIGHTING REQUIREMENTS OF CERTIFICATED SITES OVER THE YEARS HAS SHAPED OUR PRODUCT PORTFOLIO AND SERVICES. OUR NEW LIGHTING PROJECTS ARE NOT ONLY DELIVERING SIGNIFICANT ENERGY SAVINGS THEY ARE ALSO REDUCING LONG TERM MAINTENANCE COSTS WITH FAST PAYBACKS PERIODS."
>
> - CHRIS PAYNE, CEO, GLASSGUARD

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RETAILERS IGNORE CONSUMER DEMANDS FOR ETHICAL BRANDS AT THEIR PERIL

FRANK WOODS
RETAIL INSURANCE EXPERT
NFU MUTUAL

THE APPETITE FOR BRANDS WHICH CAN DEMONSTRATE AUTHENTIC, SOCIALLY-RESPONSIBLE CREDENTIALS IS SHAPING THE FUTURE OF MAINSTREAM RETAIL.

We've all fallen victim to fads at some point in our lives. Who doesn't own a toasted sandwich maker now consigned to a cupboard of forgotten gadgets, or a dodgy outfit hiding shamefully in the wardrobe?

The difference between a fad and a trend is the former is all hype over substance. Trends answer genuine consumer needs and gather momentum through cultural shifts in lifestyles. It is easy to mistake one for the other; correctly identifying and satisfying an unmet consumer need is the Holy Grail for businesses.

There has been a noticeable rise in brands claiming to be authentic, ethical and local; packaging and advertising proudly express their socially responsible credentials. But can this be dismissed as another fad?

This situation does mirror a shift among consumers living healthier, more ethical lives as they turn their backs on brands lacking authenticity or transparency. We want to feel good about the things we buy and will seek out options enabling guilt-free consumption.

Whether buying from a farmers' market, endorsing favoured brands on social media, or choosing local business over corporate giants, consumers are sending a message.

Brands must now take action to avoid potential criticism. It's a fine line between luxury and wastefulness; where the exotic was once desirable, locally-sourced is now the ultimate badge of honour.

Connected consumers shun generic, globalised offerings.
They want true authenticity and as a result we see simple, natural products are in demand - stripped back to the elements and difficult to mass produce.

TREND PREDICTIONS

Global market researchers Mintel identifies key European consumer trends, claiming: "We'll see brands react to consumer concerns by offering greater transparency in beauty and household ingredients. Also, a shift towards more 'kitchen cosmetics' as consumers seek to eat themselves pretty with those foods promoting their European or local purity credentials."
Multinational professional services firm, Deloitte's consumer tracker report identified: "Health wellness and responsibility as the new basis of brand loyalty.

Emotional ties to national brands will likely decline due to growing consumer discontent, with large companies' perceived values coupled with an increased consumer focus on personal health, the environment, and social impact."

In its 2016 report, Euromonitor International concludes:

> "CONSUMERS ARE PRIORITISING LOCALLY GROWN, SEASONAL FOOD FOR ENVIRONMENTAL, THRIFT, FRESHNESS AND HEALTH REASONS. SHOPPING NEARER HOME IN SMALLER RETAIL FORMATS, SUCH AS CONVENIENCE STORES AND SMALLER BRANCHES OF SUPERMARKETS, AND BUYING STREET FOOD, ARE BOTH SUSTAINED TRENDS. FARMERS' MARKETS, OFTEN SELLING ORGANIC FARE, EPITOMISE THIS LOCAL TREND AND ARE NOW A GLOBAL PHENOMENON."

MAINSTREAM ADOPTION

Supermarket shelves groan under the weight of products advertising traceability as a key feature. Larger retailers have caught onto the fact that the buying public demands local, artisan products.

However, faking it is not an option. Consumers in the digital age are increasingly capable and willing to debunk misleading claims. Hard won plaudits for social responsibility can quickly be undone for those accused of misleading customers, resulting in the risk of damaged reputation.

Phil Bicknell, the National Farmers' Union's Head of Food and Farming, highlighted Tesco's recent move to rebrand some of its lines with the names of 'fictitious' farms.

Having praised the supermarket giant's sustainable approach to working with milk suppliers, Bicknell questioned its decision to create seven farm names to replace its Everyday Value range. "The names of these farms don't have any link to where the product has been sourced from, something that has the potential to confuse or even mislead customers," he argued.

"Tesco are not the only retailer to have launched a brand such as this. Morrisons use the 'Market Deals' brand to sell New Zealand lamb legs on promotion and both Aldi and Lidl use farm names within their branding. The key question to ask with this is, what are these brands trying to communicate? If this is not aligned with the origin sourcing and specification of the product, we must ask if this is misleading to customers."

AUTHENTIC TO THE CORE

A stand-out example of a brand which places ethics and localism at its core is the Co-op. Its recent rebrand emphasised a return to its traditional values, where community comes before profits.

Signalling a renewed commitment to a proud ethical heritage, the Co-op reinstated its 1968 design 'clover leaf' logo, "because it links to a time when people understood how they could be co-owners of their Co-op and how a strong Co-op could help to create strong communities."

Outside of retail, at NFU Mutual we recognise customers attribute value to the fact we operate from hundreds of rural community branches. These roots in the community are often cited as a major contributor to the customer service awards the business has won and are also a definitive differentiator to online-only competitors.

THE FUTURE?

Appetite for the authentic is growing among consumers of the future.

Global trend analysts Nielsen surveyed 30,000 people in 60 countries and found 66% of respondents would pay more for sustainable goods - up from 55% in 2014 and 50% in 2013. Millennials (aged 21 to 34) and Generation Z (under 20) were among those increasingly willing to pay extra to companies committed to sustainability.

Grace Farraj, public development and sustainability expert at Nielsen, concluded: "Brands that establish a reputation for environmental stewardship among today's youngest consumers have an opportunity to not only grow market share, but build loyalty among the power-spending Millennials of tomorrow, too."

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NFU Mutual

"BRANDS THAT ESTABLISH A REPUTATION FOR ENVIRONMENTAL STEWARDSHIP AMONG TODAY'S YOUNGEST CONSUMERS HAVE AN OPPORTUNITY TO NOT ONLY GROW MARKET SHARE, BUT BUILD LOYALTY AMONG THE POWER-SPENDING MILLENNIALS OF TOMORROW, TOO."

FIVE TRANSFORMATIONAL THEMES EMERGING FROM THE USA CUSTOMER EXPERIENCE LEADERS

CRAIG RYDER
CUSTOMER EXPERIENCE DIRECTOR
KPMG NUNWOOD

THE RECENTLY PUBLISHED KPMG NUNWOOD USA CUSTOMER EXPERIENCE EXCELLENCE ANALYSIS HIGHLIGHTS THAT THE AMERICANS REMAIN AHEAD OF THE UK IN DELIVERING OUTSTANDING CUSTOMER EXPERIENCES (CX).

In fact, best estimates suggest the UK is as much as three years behind the USA, with the gap particularly wide in the grocery sector. So why has UK grocery fallen so far behind in terms of CX and what can we learn from American organisations who seem to be doing a better job?

A triple onslaught of changing shopping habits, a double dip recession and the explosive growth of limited assortment discounters and high street value retailers have created an environment where the traditional UK Big 4 Grocers (who still account for over 70% of the market) have spent much of their energy trying to stem share loss and negative like-for-like sales - a problem that few in the industry saw coming.

Looking to the US for ideas to inspire a British grocery rebirth, several themes emerge. On the surface we see the usual suspects; sampling programmes, highlighting fresh food credentials, cookery schools, clever apps and community involvement - all elements that seem to work for the Americans.

Most of these have been around for some time but tend to land in a lacklustre fashion over here. Sampling programmes, for example, tend to be seen as a revenue stream rather than a source of excitement and inspiration.

So, digging deeper into the USA's CX success, are there lessons to be learnt at a more structural level?

GREAT CX IS THE SUM OF MANY SMALL THINGS

In a world of 24/7 social media, we share stories about our experiences of a brand. But brand is no longer what the marketing department tells the customer it is; it's the sum total of all the experiences your customers share, like and forward to their networks.

Customers no longer believe advertising claims. If they want to know what you offer, it's likely they'll find out what the crowd thinks first. All of this means it's important for retailers to understand the 'outside in' customer journey, and design the experience in a way that the frontline can deliver consistently.

Within the series of micro-experiences that make up a typical shopping trip, there must be a sufficient number of 'signature actions' to create something unique, with the power to keep customers coming back. A great example of this in the hospitality sector is Doubletree's fresh cookie on arrival – a low cost treat that customers talk about every time they discuss the brand.

DIGITAL INNOVATION

KPMG Nunwood's work across multiple B2C sectors suggests that a third era in digital innovation is about to dawn. In this new era, innovation will be driven by leaders who have a deep understanding of the customer, and objectives will be formulated purely by the need to improve CX. This is different to the current status quo where driving cost savings or simply the adoption of technology for the sake of technology lies behind digital development.

USA retail is currently trialling 'digital shelf' technology that offers powerful experiential benefits. You may recall the UK retail industry trialling LCD shelf edge technology a decade ago. This was designed to save money but the customer experience suffered. Pricing was less clear with the location of special offers difficult to identify from afar.

In comparison, the latest US iterations of this digital innovation include customers being able to link the shelf edge display network via mobile apps to shopping lists. This delivers huge benefits to shoppers; items missed en route around the store can be highlighted and, where a product cannot be located, the shelf edge labels can flash a bright LED beacon. Other uses already being developed include the ability to highlight all products within a category meeting certain criteria (e.g. nut free biscuits within a range) and even show short instructional videos showcasing how best to use a product.

CUSTOMER PURPOSE

As consistently highlighted in KPMG Nunwood's CX Excellence studies over the past seven years, motivated and focussed staff play a vital role in customer experience. This is especially the case in retail, where the majority of brand interactions are the preserve of colleagues earning close to minimum wage.

Businesses with a well-articulated statement of purpose benefit from a workforce who can go about their day-to-day work with clarity, focus and belief in the value of their efforts. Of course, such a statement alone cannot deliver a change in behaviour, it must also be combined with the permission for staff to act in a way that protects and enhances the experience of the brand. As such, the art of a successful statement of purpose is that it must resonate with front line staff, with customers, as well as with senior management – and with all these parties understanding the guiding principles.

HUMAN EQUITY VALUE CHAIN

If an organisation's culture and practise delivers an excellent colleague experience, a positive customer experience is much more likely to follow. Where this customer experience is optimised to deliver where it really matters, then customers are far more likely to be loyal to a brand, as well as act as brand advocates to their wider networks.

Many businesses have in place programmes to enhance culture, improve engagement and deliver better customer experiences. But issues occur where the 'engines' driving each of these elements are not aligned. Individual functions design such programmes with the best intentions but misaligned objectives cause friction and unintended consequences.

ORGANISING AROUND THE CUSTOMER JOURNEY

Businesses that are truly blazing a trail in terms of customer experience are those building themselves around a truly customer-centric structure.

The customer journey forms an organising framework for these companies. At the top of each group of journey-focused employees sits a leader with total responsibility for delivering that journey. Individual experts within the team ensure every action, process and challenge is set with journey improvements along their shared raison d'etre.

As UK grocery retail faces the challenge of a world class discount sector potentially taking 25% of the mid-term market, it is certain that optimised customer experiences will be at the heart of future growth for legacy brands. The ideas and themes outlined above are working in the USA but require bold and visionary changes to be made by their British counterparts.

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KPMG nunwood

AS UK GROCERY RETAIL FACES THE CHALLENGE OF A WORLD CLASS DISCOUNT SECTOR POTENTIALLY TAKING 25% OF THE MID-TERM MARKET, IT IS CERTAIN THAT OPTIMISED CUSTOMER EXPERIENCES WILL BE AT THE HEART OF FUTURE GROWTH FOR LEGACY BRANDS.

HOW TO CASH IN ON THE INTERNATIONAL ONLINE SALES BOOM

SIMON MORAN
SENIOR DIRECTOR - STRATEGIC CLIENT SERVICES
PAYPAL UK

BRITAIN IS CURRENTLY THE WORLD'S THIRD MOST POPULAR DESTINATION FOR ONLINE SHOPPERS. IN FACT, ACCORDING TO RECENT RESEARCH CONDUCTED BY PAYPAL AND IPSOS MORI , MORE THAN 86 MILLION PEOPLE ACROSS 29 COUNTRIES BOUGHT GOODS OR SERVICES FROM THE UK LAST YEAR.

That's the good news. What is surprising is that only half of the nation's businesses are actually making the most of it. Just over half of UK online businesses currently sell abroad, well behind their counterparts in other European countries.

With so many British retailers missing out on this cross border trade, here are five steps your business can take to get a slice of the action.

1. DO YOUR HOMEWORK

Despite the world of opportunity out there for retailers, the idea of navigating international deliveries; complying with local customs and taxes; and familiarising yourself with cultural nuances can be daunting.

Moreover, consumer shopping habits vary by country, along with local traditions and holidays. The best route into each market will be determined by your product range and supply chains.
Doing your research and laying proper groundwork for your international expansion will give your customers the best possible shopping experience.

PayPal offers its business customers expert advice on cracking international markets at a dedicated portal. PassPort helps business owners better understand and target international shoppers through country-specific guidance and global sales tools. GOV.uk also has a comprehensive guide for businesses looking to start exporting, whilst Enterprise Nation offers a host of advice-led articles and videos.

2. TAILOR YOUR TARGETING

Search Engine Optimisation (SEO) is a cornerstone of marketing to online shoppers, yet only 29% of British businesses use it to drive overseas customers to their websites. With over a third of international shoppers using search engines to find and access retailers in other countries, you should not underestimate the importance of SEO, nor the need to secure a top ranking for your products.

To go a step further, find out where your international customers are spending their time online, and consider how to tailor your approach for those channels.
That might mean advertising on WeChat in China or running promotional offers on Mxit in South Africa.

3. GO NATIVE

PayPal research found that in China – the UK's biggest foreign online market – a third of consumers are more likely to buy from another country if the website is translated into their language. Similarly, 29% of US shoppers are more likely to complete a transaction on an overseas website if they can pay in dollars. Yet despite this, almost half of businesses selling abroad still only offer one price and currency for all markets.

I've seen this first-hand with one of the retailers PayPal supports. Hawes & Curtis, the premium fashion retailer, found that bloggers in its biggest overseas market – Russia – had translated its English language website to make it more accessible for local shoppers. In response, the company has now built dedicated websites for its most important markets.

> "A THIRD OF CONSUMERS ARE MORE LIKELY TO BUY FROM ANOTHER COUNTRY IF THE WEBSITE IS TRANSLATED INTO THEIR LANGUAGE"

Enabling your international customers to browse and shop in their own language and currency goes a long way to making them feel at home. You may not be able to tailor your online store for every market in one go, but adding incremental language and currency options will allow you to service your most important markets over time.

4. SAVE ON SHIPPING

A quarter of British retailers say they are put off selling overseas by concerns about high international shipping costs.
Yet conversely, the single most attractive driver for shoppers buying from overseas is free delivery.

The most successful international retailers are the ones that find a way to overcome this paradox. You don't have to be a large retailer benefitting from heavily negotiated logistics contracts or economies of scale to overcome it too. In fact, to make it easier for any business to manage their shipping costs and provide the best service for international customers, PayPal refunds the cost of returning unwanted goods for shoppers in 25 overseas markets - including Australia, the US, France and Spain. The service gives customers who pay with PayPal the option to claim back the cost of return shipping to the UK, with the value and frequency of claims varying by market.

5. MAKE THE MOST OF MOBILE

In the UK's top four online export markets – China, USA, Germany and France – desktop computers remain consumers' preferred device for online shopping. Yet smartphones continue to close the gap, underlining the growing importance of mobile commerce for our nation's online retailers.

In China alone, the number of smartphone users is expected to top 563 million in 2016[1], while 83% of Chinese cross-border shoppers use their smartphones to purchase abroad. Tap into this boom by making sure your website is mobile-optimised and by setting it up to accept mobile payments from anywhere in the world.

You can expect to hear more and more about the importance of international online sales as the number of shoppers heading to our stores continues to increase. The opportunity is there for the taking for ambitious retailers who are ready and open for global business.

For further information, please contact:

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PayPal has released results from two international studies undertaken with Ipsos MORI:

- In March 2016, PayPal released research exploring how small-to-medium-sized businesses are selling abroad. The study was conducted in six major online retail markets – the UK, USA, France, Germany, Italy and Spain with a total sample size of 1,214.
- In November 2015, PayPal released research exploring how online shoppers buy internationally. The study was conducted in 29 countries with a total sample size of 23,354.

"PAYPAL REFUNDS THE COST OF RETURNING UNWANTED GOODS FOR SHOPPERS IN 25 OVERSEAS MARKETS"

1 Source: http://www.statista.com/statistics/467160/forecast-of-smartphone-users-in-china/

SEGMENTATION – A VITAL TOOL IN SERVING YOUR DIGITAL CUSTOMERS PROFITABLY

JASON SHORROCK
VP RETAIL INDUSTRY STRATEGY EMEA
JDA SOFTWARE

IN THE UK, ONLINE RETAIL CONTINUES TO GROW AT AN IMPRESSIVE RATE WITH THE LATEST FIGURES FROM THE IMRG (INTERACTIVE IN MEDIA RETAIL GROUP) SHOWING THAT YEAR-ON-YEAR SALES GREW AT 15% IN Q1 2016; WHILE SEPARATE FIGURES FROM THE OFFICE OF NATIONAL STATISTICS SUGGESTED THAT IN MAY ALONE THERE WAS A 21.5% RISE IN ONLINE SPENDING COMPARED TO THE SAME TIME LAST YEAR.

This growth presents both an opportunity and a challenge for retailers, at a time when customers are becoming ever more demanding in their expectations of free and flexible fulfilment options.

Our third annual JDA & Centiro Customer Pulse Report UK 2016 highlighted that nearly three-quarters (73%) of online shoppers would likely switch to another retailer if they had a poor experience with an online home delivery or when using a Click & Collect service.

Furthermore, more than half of shoppers (53%) experienced a problem with an online order during the last 12 months. This should be a major worry for retailers as today's consumer has no qualms switching their custom to a competitor.

LAST-MILE WOES CONTINUE

Last-mile delivery problems continue to be a major pain point for many retailers, and solving these problems is both an economic and operational challenge. Retailers are still not doing enough to avoid issues such as incorrect items being delivered – a problem experienced by 21% of respondents who encountered issues, while 25% received damaged goods. The financial implications of correcting such issues and the subsequent returns processing is huge. Indeed, recent figures estimate that online returns cost UK retailers £20bn a year, a figure that is likely to continue to grow as the number of online purchases increase.

THE EMERGENCE OF THE 'SERIAL RETURNER'

Successfully managing return levels continues to represent a challenge for retailers, especially as customer behaviour differs. Our research revealed that for non-grocery items, 36% of online shoppers typically do not return any items in an average year, 32% return up to two items. A further 23% return three or more items, with 4% of these returning more than 10 items per year. When asked what were their reasons for returning items they have bought online, 42% said they had done so as it was not what they were expecting. This highlights that there is still considerable room for improvement regarding how products are described online and the imagery used. Accurate product descriptions and imagery could generate significant costs savings to retailers and deliver a better online shopping experience to customers. Retailers especially need to understand the 19% of online shoppers that buy multiple items with the intention of returning those good they do not want. This is very expensive, so these 'serial returners' need to be encouraged to come into the store more often or only be offered a limited number of free returns. Ultimately, to help retailers overcome the heavy cost of returns, they need to start adopting a more segmented approach to dealing with these different customer behaviours.

IMPACT OF MINIMUM ORDER VALUES

Over the last few years, retailers have invested heavily in enhancing their delivery and returns offerings, yet there remains a general customer expectation that the fulfilment of online orders should be free.

Therefore, raising minimum order values and charging for Click & Collect orders is a big consideration for retailers as they look to boost the profitability of their online operations. A recent JDA/PWC CEO study found that 39% of global retail CEOs plan to raise the minimum order value for free home delivery, while 31% said they would charge for Click & Collect.

Our research findings show that different customers are reacting differently when such restrictions are thrust upon them. A third (33%) of respondents said they would choose an alternative free delivery / collection option even if it was less convenient and takes longer, while 31% switched to shopping with an another retailer that did not impose restrictions or charges. A further 29% bought more items in order to exceed the minimum order value threshold and qualify for free delivery. Again this split in reactions suggests that retailers need a segmented approach if they are to better understand and serve their customers.

However, it will be of some comfort to the likes of John Lewis and Tesco, who have brought in charges for some of their fulfilment options over the last 12 months, that customers are accepting they have to pay for speed and convenience. Only 3% expect same-day delivery to be free and just 9% expect to have no costs attached to next-day delivery orders. Perhaps surprisingly, only 57% of shoppers expect standard Click & Collect (3-5 days) to be free, indicating there is more value being attached to convenience than previously thought.

INSIGHT + SUPPLY CHAIN = SUCCESS

Retailers are increasingly offering alternative fulfilment options to better serve customers, but they do need to ensure they manage this increased operational complexity in a profitable manner.

The successful and profitable retailers will be those that can offer a more personalised and relevant service, that tailors the fulfilment and returns options, and the charges for these services to each customer segment to ensure long-term loyal and profitable relationships. Ultimately, aligning this customer insight with their supply chains will help retailers deliver a better and more cost efficient service to today's demanding online customer.

Download a cost-efficient full copy of the report here.

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THIS GROWTH PRESENTS BOTH AN OPPORTUNITY AND A CHALLENGE FOR RETAILERS, AT A TIME WHEN CUSTOMERS ARE BECOMING EVER MORE DEMANDING IN THEIR EXPECTATIONS OF FREE AND FLEXIBLE FULFILMENT OPTIONS.

BIG DATA, SMARTPHONES AND NEXT GEN RETAIL

KEVIN JENKINS
MANAGING DIRECTOR UK & IRELAND
VISA

OVER THE LAST DECADE, THE STORY FOR BUSINESSES ACROSS AN ARRAY OF VERTICALS HAS BEEN ABOUT BIG DATA.

Though perhaps daunting to the outsider, this movement towards smart analysis of large datasets to generate customer insights continues to drive retail and a broad swath of other industries.

Behind the bold promises, the ability to better understand customers by looking at their shopping habits has been a catalyst for an improved online retail experience. A key reason for that is personalisation – using behavioural and demographic data from a variety of sources, online retailers can offer their customers an experience tailored to their needs and wants in a way unimaginable a generation ago.

> TODAY, THE CHALLENGE FOR RETAILERS IS THAT THEIR CUSTOMERS, ACCUSTOMED TO PRODUCT RECOMMENDATIONS, REWARDS AND OFFERS BEING TAILORED TO THEIR TASTES AND PREFERENCES WHEN SHOPPING ONLINE, WANT THAT SAME EXPERIENCE IN A PHYSICAL STORE. THIS IS HARDER TO ACHIEVE, BUT IT HAS THE POTENTIAL FOR THE GREATEST REWARDS.

For retailers, the greatest sales opportunities are often missed in-store where even the best and most loyal shoppers can become anonymous when they walk through the door. The connections and customer insights brands generate online often remain frustratingly out of reach in the store.

Breaking down the barriers between a personalised experience people have online and the generic one they get on the high street is therefore a key challenge for retailers. As with so much in today's world, the smartphone and the data it captures provides the first step towards a solution.

This has the potential to lead to smarter stores where shoppers can enjoy a far more personalised experience if retailers can capture and harness that data effectively and do so in a way that engages – not enrages – their customers.

SMARTPHONES HOLD MUCH OF THIS DATA POTENTIAL

Smartphones offer the potential to bridge the online-offline gap. For retailers with an online presence, consumers already shopping via mobile can offer a point of reference and valuable data every time that consumer enters a store.

Beacons and Bluetooth technologies, for example, can provide live data in-store through identifying loyal shoppers when they walk through the doors. This allows retailers to send shoppers messages based on previous purchases or items they may currently have in their online checkout basket, or personalised rewards directly to their mobile as they walk around the store.

Another option is to analyse telecom data. In addition to the data mined from till receipts and loyalty cards, retailers have access to data on the location and movement of customers through these companies and consultancies that work with them.

This data could give retailers the understanding beyond simply where their customers live – it can give them insight into their commuter journey so that they can provide offers or products more targeted to their customers' lifestyles.

FROM THE SMARTPHONE TO THE SMARTFRIDGE

In the next few years, the data landscape will grow more complex as the growth of the 'Internet of Things' enables more actions and behaviours to be 'data-fied'. The data generated by all these devices will give retailers unprecedented insight into their customers.

Consider, for example, the growing interest in the concept of smart fridges. The idea of these devices learning their owners' eating habits has been much discussed, but there could also be an impact on in-store supermarket shopping. Imagine for example a smart fridge generating recipe ideas as consumers browse in-store, based on an analysis of calendar events in a shopper's smartphone for the week ahead.

Additionally, this data can also help shops anticipate purchasing peaks by understanding consumer consumption. Used in conjunction with historical data, this could help retailers improve their ordering accuracy to reduce wastage.

On their own, each of these data streams provides the potential to generate elements of a personalised in-store experience for the shopper. Analysed together, they become far more powerful in their ability to do so.

Learning to use these effectively and embracing the power of big data analytics is going to be crucial in keeping bricks-and-mortar operations relevant to today's shopper.

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IN ADDITION TO THE DATA MINED FROM TILL RECEIPTS AND LOYALTY CARDS, RETAILERS HAVE ACCESS TO DATA ON THE LOCATION AND MOVEMENT OF CUSTOMERS THROUGH THESE COMPANIES AND CONSULTANCIES THAT WORK WITH THEM.

THE DAWN OF POST-MODERN RETAILING

MARK THORNTON
MARKETING DIRECTOR
MAGINUS SOFTWARE SOLUTIONS

WITH RETAILERS OUTSOURCING AN INCREASING NUMBER OF BUSINESS PROCESSES, MARK THORNTON, MARKETING DIRECTOR AT MAGINUS, LOOKS AT THE BENEFITS OF OUTSOURCING AND HOW RETAILERS CAN RETAIN A DEGREE OF CONTROL IN THE ERA OF POST-MODERN RETAILING.

The days of retailers handling all critical business functions and processes from delivery, warehousing, and logistics, to returns and customer contact centres are coming to an end.
The traditional notion of retailers handling all these processes is slowly but surely being phased out, as the sector enters a new 'post-modern' era in how it conducts its operations.

In 2015, outsourcing in the retail sector increased by 45% year-on-year, with 60% of retailers citing delivering an improved customer service as the main driver for handing control of critical processes over to third parties. And the benefits of outsourcing processes don't stop there; as Natalie Sehnal, Business Development Manager at Spark Response, a provider of customer contact and distribution service to the retail sector, recently explained.

THE CASE FOR OUTSOURCING

"When talking to customers, it's clear that outsourcing offers them increased flexibility and scalability at a price point far below the investment required to handle processes themselves," commented Natalie, "What's more, they can instantly gain access to expert staff and specialist skills that would take a significant amount of time, resource and investment to accrue internally."
As a result of these benefits, retailers have realised that they are in a far stronger position to respond to changes in the market place, and more able to upscale to cope with peak trading times such as Black Friday and Christmas. Importantly, they can do so cost effectively, while realising a quick return on investment.

> "OUTSOURCING OFFERS RETAILERS INCREASED FLEXIBILITY AND SCALABILITY AT A PRICE POINT FAR BELOW THE INVESTMENT REQUIRED TO HANDLE PROCESSES THEMSELVES"

ASSESSING YOUR OUTSOURCING OPTIONS

So, which business processes do retailers stand the most to gain from outsourcing and what are the potential drawbacks of doing so? Let's take a look at some of the pros and cons of outsourcing key processes.

ECOMMERCE
The obvious pro of outsourcing an eCommerce offering is the easy to use templates that third party marketplaces can offer, ensuring a retailer's products become almost instantly available to the mass market. However, the flipside tends to be that by outsourcing to companies such as Amazon and eBay, retailers will lose any USP over competitors and have limited choice and control over how products are presented.

CUSTOMER CONTACT CENTRE
Customer contact centres require not only a large amount of office space, but also significant investments in both staff training and infrastructure. By outsourcing, retailers gain instant access to a well-trained expert team of staff, while also gaining the flexibility to upscale for peak trading periods. However, the drawback is that it removes a direct touch point with the customer, creating the potential for a disconnect opening up between the brand and the customer.

WAREHOUSING
A warehouse capable of handling a retailer's entire product range is not cheap, so outsourcing removes the need for upfront investment in facilities, while also providing the scalability to increase or reduce space as and when it is needed. The downside, however, is that the retailer is placing a high level of trust to fulfil orders in a third party provider.

DELIVERY
The main appeal of outsourcing delivery to an external supplier is that it removes the complex problem of meeting same day and next day delivery promises, leaving it to the experts to fulfil. However, retailers are literally putting their brand and reputation in the hands of the service agent knocking on the door.

CONNECTING THE OUTSOURCED DOTS

Despite the obvious benefits of outsourcing these processes, the retail sector has two core reservations about handing over the critical functions to other providers. First, it becomes a major challenge to pull together all the information they require from the disparate providers, and secondly there is the fear that they will lose all control over the critical data that handling these processes generates.

The obvious answer is to utilise cloud solutions to pull together all outsourced functions onto a unified platform and ensure they retain control. This model enables retailers to realise the benefits of business applications, while also enabling suppliers to access only the applications that are relevant to the functions that they deliver.

Much like the move from keeping money in a tin under the bed to keeping it in the bank, whereby control was sacrificed for enhanced security and access from a variety of touch points, the cloud/SaaS model delivers the same for retailers that outsource processes.

POST-MODERN RETAIL

As retailers outsource more processes to expert, niche providers they will be better positioned to focus on core competencies of branding, buying and selling, and merchandising.

Mark Thornton commented, “The cloud will sit at the centre of this new world, pulling together all the disparate data from third party suppliers, enabling retailers to ensure that they achieve customer service excellence. This ‘post-modern’ approach will not only enable retailers to deliver better customer service but also to respond more quickly to changes in the market and ultimately improve their bottom line.”

Maginus provides cloud ERP solutions that enable multi-channel retailers to stay ahead of the competition. They help you grow revenue by making you easier to do business with and enable better service.

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“THIS ‘POST-MODERN’ APPROACH WILL ENABLE RETAILERS TO DELIVER BETTER CUSTOMER SERVICE AND RESPOND MORE QUICKLY TO CHANGES IN THE MARKET.”

USING TECHNOLOGY TO OPTIMISE DISCOUNTING AND PRICING STRATEGIES

SANJEEV SINGH
ASSOCIATE DIRECTOR, TECHNOLOGY CONSULTING
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AS CUT-PRICE PRODUCTS BECOME EVER-MORE POPULAR, RETAILERS SHOULD HARNESS TECHNOLOGY TO ENSURE DISCOUNTING DOES NOT DENT THE BOTTOM LINE.

The boom in discounting is providing big benefits for British shoppers but many retailers are struggling to reap long-term rewards from sale events. Negative impacts on the bottom line are common as stores often fail to mitigate the risks associated with offering lower-priced goods. To deal with these challenges, retailers must start thinking about how they can harness technology to devise smarter discounting and pricing strategies.

The trend to sell ever-larger proportions of inventory at discounted prices is partly a reaction to increased competition across the retail sector. In an already saturated market, new entrants often rely on aggressive discounts to attract customers and drive brand value. As traditional retailers suffer market-share erosion, they too turn to promotions in a bid to lure back customers and repair loyalty.

Retailers have also become more customer-centric in recent years, and many see discounts as a way to satisfy consumer expectations. While standalone sale-frenzy events, such as Black Friday and Cyber Monday, prove popular with British shoppers, demand for discounted goods remains high throughout the year. The proliferation of smart mobile devices, which allow customers to easily and quickly compare prices across competitor retail sites, has helped sustain this trend.

Handled correctly, price promotions can have a significant impact on sales and footfall, which can, in turn, support additional sales of full-price products. Under certain circumstances, discounting strategies are also linked with cash flow management and sustainability. The wrong approach, however, can create a number of risks to retailer businesses. Care must be taken to properly plan discounting events to ensure they provide positive impacts on bottom lines over the long term.

This will become even more important as pressures in the retail sector increase. The UK's recent decision to exit the European Union is just one of many challenges on the horizon. Any drop in sterling will have a negative impact on margins while restrictions on trade with EU countries could lead to an increase in the cost of goods. If no trade agreement is reached between the EU and the UK, tariffs set by the World Trade Organisation will apply, which could further drive up costs for UK retailers.

SUCCESSFUL DISCOUNT STRATEGIES

Smart pricing and discount strategies should seek to strike a balance between consumers' expectations and the need to run a business profitably. It is also important that retailers differentiate between considered discounting strategies and ad hoc sale initiatives driven by fierce competition. Both have a role to play, and each must be factored into long-term business planning.

In today's complex trading environment, discounting strategies must deliver on the value matrix that influences each purchase: brand, price and availability. It can also be useful to consider the economic law that price should be dictated by supply and demand. When demand is low, discounting can help drive consumer interest and sales. When demand is high, retailers should avoid discounts and continue to charge a high price. However, the rule does not apply when discounts are used to drive brand value.

Understanding consumer needs and expectations is another fundamental tenant of successful pricing and promotional strategies. Robust customer data can help retailers avoid blanket discounts across product lines and instead focus on delivering personalised offers and promotions. This can create a range of benefits, including driving customer loyalty, encouraging cross-selling and boosting sales.

HOW TECHNOLOGY CAN HELP

Technology is already revolutionising the retail sector, providing end-to-end solutions that cover store operations, e-commerce, multichannel management point-of-sale, merchandising, enterprise resource planning and capabilities.

But it can also play a key role in helping retailers overcome challenges when devising pricing and discounting strategies.

Technology-led retail management systems that provide stores with accurate, real-time view of sales, inventory and customer bases can help retailers formulate sale strategies and identify appropriate moments to run flash discount events. They also help stores run more relevant discounts, creating additional long-term benefits of increased customer satisfaction, loyalty and brand value. Retailers without these systems in place are missing an opportunity to optimise their merchandising, promotional, and pricing strategies.

Today, a wide range of retail management systems are available in the market place. Retailers must carefully evaluate options and select the most suitable system to meet their specific needs. Some of the key considerations include:

- An omnichannel system that can offer a single view of sales, inventory and customers across all touchpoints
- Forecasting and merchandising capabilities to ensure the right level of stock is available
- A loyalty management facility and ability to capture customer preferences to run personalised discounting and promotional campaigns linked with social media and other online tools
- An integrated financial management and reporting system that provides real-time views on margin by stock keeping unit (SKU), location and campaign

Overall, the culture of discounting and promotions will likely remain a core feature of the UK retail market for some time to come, and this will create new opportunities and challenges for today's retailers. Technology can help mitigate risks to the bottom line, allowing retailers to plan and execute dynamic pricing promotions that will balance consumers' expectations with the need to run a business profitably.

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RETAILERS WITHOUT TECHNOLOGY SOLUTIONS IN PLACE ARE MISSING AN OPPORTUNITY TO OPTIMISE THEIR MERCHANDISING, PROMOTIONAL AND PRICING STRATEGIES.

THE EVOLVING ROLE OF THE PSP IN A GLOBAL MARKET

JULIAN WALLIS
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THE FUTURE OF INTERNATIONAL TRADE IS ONLINE. LOOK AHEAD TO 2020 AND THE VALUE OF GLOBAL CROSS-BORDER ECOMMERCE COULD BE 25% HIGHER THAN IT IS TODAY. IN EUROPE IN PARTICULAR, CONSUMERS ARE INCREASINGLY SHOPPING BEYOND BORDERS: THIS TREND IS PREDICTED TO GROW 27% EACH YEAR UNTIL 2020[1].

In China, 15% of the population will make a cross-border transaction in 2016, amounting to over $85bn of international purchases[2]. North America's eCommerce market is projected to be worth over $493bn by 2018 and by 2019, Latin America's will be worth over $484bn[3].

More customers are shopping online more frequently. Consequently, expectations for a smooth checkout experience increase. Payments have seen remarkable innovation since the turn of the decade but online merchants must keep pace, offering the payment methods, language and currencies that the customer feels comfortable shopping with.

These preferences are sensitive to local dynamics and payment cultures; merchants need to provide an optimised experience that is localised to these regional customs, or risk losing the customer.

PAYMENT TRENDS IN THE DOMESTIC MARKET

While the global eCommerce market booms, merchants will still see huge value in their domestic market. However, the means by which people like to pay are beginning to shift, even locally.

In-app payments, mobile payments, contactless (NFC) and digital wallets are all growing in popularity and merchants need to deliver a more well-rounded omnichannel experience. Merchants now expect Payment Service Providers to deliver to their expanding customer conversion strategies.

LOCAL KNOWLEDGE IN NEW MARKETS

However, expanding into new markets brings a whole new set of variables. Different markets have different banking protocols, shipping preferences, customer preferences, regulations and currency management. The opportunities for success, however, provide greater impetus for meeting the challenge.

1 http://www.ibtimes.co.uk/bright-side-brexit-uks-ecommerce-platform-potential-can-easily-surpass-that-europe-1567806
2 http://www.emarketer.com/Article/China-Embraces-Cross-Border-Ecommerce/1014078
3 4 corners of global payments, Ingenico ePayments

In 2015, 16% of all individuals in the EU purchased online goods or services from other EU countries – around a third more than in 2013. We know that retailers processing payments from Ingenico ePayments see customers increasingly willing to look further afield to find more competitive pricing and a wider range of goods and services. These opportunities may be invaluable to ambitious merchants and those operating in an increasingly saturated domestic space.

The first step to success here is to establish and navigate the cultural, regulative and economic nuances that exist between countries and regions. This is where the quality of your PSP comes into play.

Ingenico ePayments has worked hard to be able to provide a service offering merchants over 150 currencies and 150 payment methods that operate in over 170 countries around the world. These options are critical in a world that is so varied in its approach to payments.

Asia for example, will command almost 40% of global eCommerce sales by 2019, despite being home to approximately 900 million people outside the banking system.[2] In China, the number of people using mobile phones to pay for goods and services increased two-fold last year[4], while in tier 1 and 2 cities, under-30s account for 50% of total mCommerce expenditure as the digital generation earns greater spending power[5].

A tailored payment system based on local knowledge is critical to converting traffic into sales. Some payment platforms dominate regions but there are also numerous other popular payment platforms that operate on more localised levels. Add to this different government-led financial inclusion programs and new local and global FinTech players, and there's a web of complexity to overcome in order to succeed in online retail.

GOING MOBILE

Clearly, mobile is an increasingly critical component to online trade. Emerging markets, such as those in the Asia-Pacific area, are adopting mCommerce at a rapid pace; 47% of consumers here have already made purchases on their smart phone. Merchants need a mobile-optimised website and payment method. Too often we see well-designed mobile apps failing at the last hurdle by sending users to the website to complete the transaction when it should be completed in the app. This sort of friction is enough to cause significant spikes in customer abandonment.

4 http://www.mobileworldlive.com/asia/asia-news/china-leads-world-in-mobile-payments-with-195m-users/
5 http://www.emarketer.com/Article/Younger-Adults-Make-Almost-All-Mobile-Payments-China/1014097

APPLYING DATA TO MEASURE PERFORMANCE

Aside from just facilitating payments and offering local strategic advice, PSPs can be used to create a data-driven assessment of performance. Huge amounts of raw data are of little use without knowledgeable analysis and benchmarking that focuses on the real business questions. It is important to understand the local market and know how the competition is performing. For example, an 85% authorisation rate may be excellent in one country but poor in another. This is when data really comes to life and provides the invaluable information that can guide your expansion project.

THE VENDORS THAT CAN DELIVER YOUR VISION

All four corners of the globe are now connected in commerce by an intricate maze of payment pathways. It is a maze that requires navigation based on a precise understanding of local trends. Merchants in a new market will typically invest huge efforts into bringing customers to their site and through to the checkout, but if the payment system is too cumbersome or unfamiliar they are likely to lose these customers. A tailored payment system, based on local knowledge, is critical to converting traffic into sales. The chosen provider must have the innovation of a cutting edge PSP player, the heritage of a long standing industry leader and the experience of a global and local execution team.

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"IF CUSTOMERS ARE NOT OFFERED THEIR PREFERRED PAYMENT METHOD, THEY WILL PROBABLY JUST ABANDON THE TRANSACTION."

FRAUD AND CYBER SECURITY AT THE BRC

// HUGO ROSEMONT
POLICY ADVISER ON SECURITY, RISK AND SAFETY
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THE ONSET OF CYBER-CRIME IS NOW WIDELY RECOGNISED AS A MAJOR THREAT TO THE RETAIL INDUSTRY, AND THE BRITISH ECONOMY MORE BROADLY. WHILST THE UK'S NATIONAL CRIME AGENCY HAS ACKNOWLEDGED THAT 'THE TRUE SCALE AND COST OF CYBER-CRIME IN THE UK IS UNCLEAR AT PRESENT', THE OFFICE FOR NATIONAL STATISTICS REPORTED THAT THERE WERE AROUND 5.1 MILLION INSTANCES OF FRAUD AND 2.5 MILLION INSTANCES OF CYBER-CRIME LAST YEAR.

It is a serious issue for the UK retail industry, with 94% of those responding to the latest edition of the BRC's annual crime survey stating that the overall number of cyber breaches is either increasing or remaining the same. Types of online fraud and cyber-crime are extremely varied and include, amongst many others, 'phishing', and so-called Distributed Denial of Service (DDOS) attacks. The challenge that retailers face in this context is by no means limited to financial harm, however.

> HIGH PROFILE DATA BREACHES AFFECTING THE INDUSTRY, SUCH AS THAT EXPERIENCED IN 2013 BY THE MAJOR U.S. RETAILER TARGET, HAVE SHOWN THE REPUTATIONAL DAMAGE THAT CAN BE CAUSED WHEN CYBER CRIMINALS ARE SUCCESSFUL IN THEIR ATTACKS UPON COMPANIES' DIGITAL NETWORKS.

It is for this reason that the BRC has developed and now maintains, as a core part of its longstanding crime and security policy activity, an active programme of work designed to mitigate the effects of fraud, e-crime, and cyber-attacks affecting the retail industry. A dedicated Fraud and Cyber Security Member Group of retailers has been established and leads the BRC's work in this area. Chaired by John MacBrayne, Cyber Threat, Corporate Investigations and Business Resilience Director for Tesco Plc, the group works closely with the UK's law enforcement and the wider security community to improve public-private cooperation in this fast-evolving field. The group meets four times each year, during which participants have the opportunity to engage with law enforcement and other invited security policy stakeholders. Retail members of the BRC are actively encouraged to engage with, and contribute to, our fraud and cyber security programme.

Our work in this area places a strong emphasis on providing practical, step-by-step support for BRC member companies. It is for this reason that, as the top priority for 2016/17, members have tasked the BRC to deliver a set of cyber 'incident response' guidelines for retailers that will assist companies when responding to a serious cyber-attack such as a data breach. This work is scheduled to be completed this winter, and the ambition is this guide will be formally launched in Spring 2017. Separately, the BRC has provided the opportunity for members to provide feedback to the City of London Police on the operation of the UK's 'Action Fraud' national fraud reporting system.

As another example, we are currently conducting work to measure more accurately the costs of cyber-crime to the retail sector, and to make an assessment of the effectiveness of the UK's response to it.

The BRC actively seeks to shape the UK cyber security policy environment with the aim of making a positive difference for retailers. For several years, the retail industry has actively encouraged the Government to simplify the UK's cyber security structures, including especially those intended for public-private cooperation. On behalf of the retail industry, the BRC regularly provides formal responses to cyber security related Government and Parliamentary consultation exercises.

For example, we have devised a response on the scope and structure of the UK's new National Cyber Security Centre, planned for formal launch in October 2016 and intended as a comprehensive source for industry of cyber secret advice. We have also issued a public response to the recent publication of the House of Commons' Culture, Media and Sport Committee's report into cyber security and the protection of personal data.

> DRIVING THE BRC'S FRAUD AND CYBER SECURITY ACTIVITY IS THE BELIEF THAT ANY EFFECTIVE STRATEGY TO TACKLE CYBER-CRIME MUST BE NIMBLE AND ALSO INVOLVE STRONG COOPERATION BETWEEN INDUSTRY AND THE AUTHORITIES; AS MINISTERIAL SPEECHES REPEATEDLY INSIST, NEITHER GOVERNMENT NOR INDUSTRY CAN ACHIEVE THIS ON THEIR OWN.

In short, cooperation between the public authorities and the retail industry is an absolutely core component of UK cyber security. There is much work to be done to improve forms of cooperation in this space, and the BRC's fraud and cyber security programme is there to work for the retail industry to mitigate the severe impact of this growing problem.

For more details about our work in this area please contact:

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WHAT RISKS ARE RETAILERS MOST CONCERNED ABOUT?

RICHARD WATERER
MANAGING DIRECTOR
AON GLOBAL RISK CONSULTING EMEA

SYMPOSIUM PANEL BRINGS EXPERTS TOGETHER TO DEBATE RESULTS OF AON/BRC SURVEY.

In April, the British Retail Consortium and Aon teamed up to conduct a survey on the key risks faced by retailers today. With the results revealed at the BRC Symposium on 11 May, it emerged that "damage to reputation/brand" is the number one issue on the UK retail sector's risk register. In a list dominated by external threats, "UK Economic Changes" and "increasing competition" came second and third respectively, with "failure to attract and retain talent" at number four.

Armed with these results, we put some of the industry's leading commentators on the spot to understand why this has happened and what can be done to help mitigate risks.

David McCorquodale, Head of Retail at KPMG; Rob Feldmann, Chief Executive at online clothing retailer BrandAlley; and Andrew Magowan, General Counsel and Company Secretary at ASOS, joined me on the stage at the BRC's annual event, and the issue of reputation immediately prompted examples of how best to prop things up when trouble hits.

"Damage to reputation isn't a risk in and of itself, but a consequence of events. Good risk management decision making can certainly limit your losses," explained Rob Feldmann. "One of the key areas for me would be the benefit of having a good media relations strategy. Consumer brands need to know how and when to work with the media, and while no single situation is the same, they should have a flexible plan to handle as many potential eventualities as they can."

David McCorquodale added: "Retailers are increasingly being encouraged to articulate the equity locked up in their brand. It is of course a fairly intangible asset, and something I believe should be considered more in the wider discussion is 'brand advocacy', by customers and staff. How do we know when a business' reputation has fallen or risen amongst these groups? Knowing the answer to these questions can be highly informative in measuring and valuing brand and most importantly, how to repair it."

The panel then moved on to one of the other rising concerns being faced by retailers: cyber risk. David McCorquodale pointed out how five years ago cyber "would have been about number 20 on the list and it probably should be higher now.

"Criminal gangs targeted governments first, followed by financial services, and now retail has become a primary target owing to the sheer volume of personal data the industry handles," he said.

"Controls have been far too weak; for example, sending payroll records to home computers means sensitive data is now outside the company's firewall. If you ask the same question of retailers again next year, cyber will be within the top three."

Andrew Magowan raised the point that very few of these risks represented a fixed point in space. "What's actually valuable to those criminal gangs is changing all the time and it's important for retailers to revaluate this regularly. There is also a lot of duplication within organisations; data backups are an obvious example but information security management should be much higher on the industry's risk register."

The ability to attract and retain good employees figured considerably higher than on previous studies and I asked the panel if they believed this was a reflection of there being a 'war on talent' in the sector and what strategies businesses had to attract the best.

Andrew suggested it was still too easy for businesses to shoehorn talent acquisition into a competition about wages. "Is it purely about remuneration? Probably not. In truth, understanding what motivates people to work and excel is probably the key. This certainly extends back to the key point today, reputation. What kind of business you are; how you are owned and operated. For a business such as ours that is only 16 years old, this can attract a certain type of applicant while others may prefer to look elsewhere."

Speaking as we were, around six weeks before the momentous EU Referendum result, the discussion returned to external challenges and how the sector is handling itself. I wanted to know if retailers simply accept these as beyond their control and concentrate on their own strategy or should risk management play a role in helping them to monitor and manage their exposures.

David McCorquodale painted a challenging picture. "Eight years since the financial crisis, the retail sector is growing at 1.9% per annum. Consumers are looking for different things and spending their money in more varied ways. Searching for new markets with better growth opportunities is an obvious choice but this carries risks and challenges that you can only withstand if you are strong at home."

With Brexit confirmed since the panel debate, their responses in terms of what new risks may emerge could perhaps now be different. Nevertheless, it's clear certain challenges will remain at the top of the sector's agenda.

"Talent to me is the top risk and opportunity," said David. "We need to go back into schools and make this industry sound more attractive to kids; it's not about stacking shelves. There are jobs in a huge range of disciplines and we need to fight hard for that talent in the same way we have to fight for the share of consumers' wallets."

For Rob, the advent of new technology could not be denied. "No one would have anticipated Uber or Airbnb three years ago," he said. "There will probably be huge changes in retail on the back of this and the point about how we stay relevant to the customer is critical. Those new disruptive brands have put themselves right at the heart of the customer's lives and the reason some retailers aren't here anymore is because they don't."

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"WE NEED TO GO BACK INTO SCHOOLS AND MAKE THIS INDUSTRY SOUND MORE ATTRACTIVE TO KIDS; IT'S NOT ABOUT STACKING SHELVES. THERE ARE JOBS IN A HUGE RANGE OF DISCIPLINES AND WE NEED TO FIGHT HARD FOR THAT TALENT IN THE SAME WAY WE HAVE TO FIGHT FOR THE SHARE OF CONSUMERS' WALLETS."

ENCRYPTION AS PART OF INFORMATION SECURITY MEASURES

KIM WALKER
PARTNER
IRWIN MITCHELL

THE LAST FEW YEARS HAVE SEEN WHAT AT TIMES SEEMS AN ENDLESS CATALOGUE OF HIGH PROFILE INFORMATION SECURITY DISASTERS, AND ALL INDICATIONS FROM THOSE MONITORING THE LEVELS OF ATTACKS ON CRITICAL IT SYSTEMS IS THAT THIS IS ONLY GOING TO INCREASE.

Retailers have suffered their share of these and customer confidence can easily be affected, even if the breach only affects a small number of individuals.

Increasingly, retailers are now turning to the encryption standards as a way of upgrading the secure storage and transmission of data. Put simply, encryption is a mathematical function using a secret key which encodes data so that only users with access to that key can read the information.

Encryption is not new in the retail world. Retailers in the UK have been guided by the data security standards set by the Payment Card Industry ('PCI') Trade Association when deciding how and when to use encryption on their websites and back office systems. The PCI Data Security Standard ('DSS') is stringent and any retailer which offers online shopping will need to comply with these standards to satisfy the terms on which payment service providers make their facilities available. Encryption is a specific requirement under the PCI DSS and requires retailers to protect stored data (using encryption) and to encrypt transmission of card holder data and sensitive information across public networks. So whilst in practice a retailer would not be able to trade online taking card payments, if it was not following PCI data security standards, the legal position is less clear.

THE LEGAL REQUIREMENTS

The Data Protection Act 1998 does not specify the use of encryption, but Principle 7 requires data controllers to use appropriate measures to keep the personal data they hold secure. The relevant part of the Act states:

> "APPROPRIATE TECHNICAL AND ORGANISATIONAL MEASURES SHALL BE TAKEN AGAINST UNAUTHORISED OR UNLAWFUL PROCESSING OF PERSONAL DATA AND AGAINST ACCIDENTAL LOSS OR DESTRUCTION OF, OR DAMAGE TO, PERSONAL DATA".

The Information Commissioner's Office ('ICO') released new encryption guidance in March 2016. In this it is clear that encryption is not just restricted to the online environment but the ICO recommends that businesses consider encryption as a security measure alongside a range of other technical and organisational efforts.

Retailers which are already adopting encryption measures under the payment card industry requirements are taking steps to ensure that the appropriate level of information security is applied across the whole of their business.

When data is in transit in online activities, PCI encryption standards will provide protection in relation to payments. SSL or TLS services ensure the customer is visiting an https:// website area when that customer logs into an account or places an order. However, there are increasingly other online touch points with a customer where the connection is made available over an unencrypted http:// website page.

For example, booking an appointment in store may require submission of name, email address and a mobile number as a minimum and if this is the same data made available via a non-encrypted method as that which forms part of an order placed via an SSL enabled page on the website, it is opening a door to an attack. Retailers also create risks by allowing users to remain logged in to a website if they navigate from an https:// page to an http:// page which would give an attacker access to a user's session cookie. To reduce complexity and minimise the risks associated with moving from one environment to another, the ICO suggests that a business should consider using SSL throughout its entire domain.

So where else might a retailer be vulnerable and require encryption of data besides its online activity? Encryption extends beyond online and retailers should adopt an information security strategy across the whole business and as part of its sales and supply chain where there will be multiple points of access of a customer's data.

In a fast moving consumer goods environment where staff may be working remotely, for example on a laptop, mobile or USB, encrypted data storage will provide effective protection against unauthorised access. Other practical measures which should be adopted include:

- Making sure that the software used is fully up to date as this will protect against unauthorised attack; and
- Having data use policies which staff understand and work to covering issues such as the importance of keeping passwords private, using mobile devices in public places and the greater-risks in sending information by email.

FINES

It is obvious that where data is not appropriately secured, loss or unauthorised access is much more likely to occur and according to the ICO, a significant number of the monetary penalties issued in the past 5 years relate to the failure to use encryption correctly as a technical security measure.

This can mean fines of up to £500,000 which will rise to €20 million or even higher, being a percentage of worldwide turnover, from 2018 under the European General Data Protection Regulation ('GDPR'). Even if the UK is no longer part of the EU by this point, if retailers want to sell to customers in the EU and EU citizens data is being stored, the GDPR will apply.

With the risk of significant damage to reputation, if a retailer does not store personal data securely, we anticipate a greater use of encryption over the coming years.

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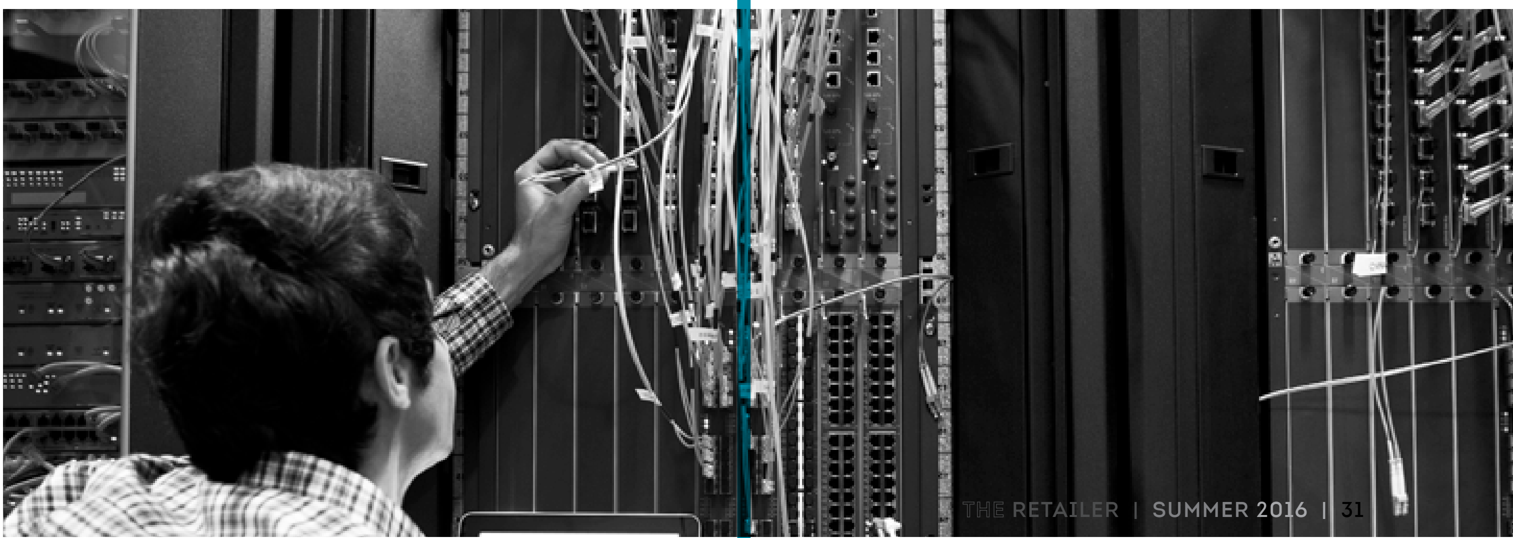
"WITH THE RISK OF SIGNIFICANT DAMAGE TO REPUTATION, IF A RETAILER DOES NOT STORE PERSONAL DATA SECURELY, WE ANTICIPATE A GREATER USE OF ENCRYPTION OVER THE COMING YEARS."



WHAT CAN RETAILERS DO TO PROTECT THEMSELVES FROM CYBERCRIME AND DATA RISKS?

GAVIN MATTHEWS
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BDO'S 2016 US RETAIL RISK SURVEY FOUND THAT 100% OF RETAILERS CONSIDER CYBER SECURITY AND DATA RISKS A THREAT TO THEIR BUSINESS. OMNICHANNEL RETAILING RELIES ON CUSTOMER AND PAYMENT DATA. LEGISLATION SUCH AS THE EUROPEAN GENERAL DATA PROTECTION REGULATION BRING ENHANCED LEGAL DUTIES AND SANCTIONS. WHAT CAN RETAILERS DO TO PROTECT THEMSELVES? WE EXPLAIN.

Analysis of increasingly rich and varied data is the key to successful retailing. Customer data gathered from online or physical subscription and request forms; footfall monitoring systems; RFID tags; internet-of-things (IoT) sensors; smartphones; loyalty cards; and CCTV databases can be analysed to produce a detailed picture of customer behaviour and preferences. Analysis of the "big data" sets harvested from such diverse sources can inform omnichannel strategies, dynamic or "surge" pricing, closely targeted advertising and social media campaigns. For commercial landlords and shopping centre management, fine-grained data relating to footfall and customer movement increasingly informs tenant mix policies, rent and rent review decisions and promotional activities. Yet with big data comes big risk.

Given its central role in developing, refining, and monitoring profitable business models and retail offers, there is a clear and compelling case for investment in the software and processing capacity required to analyse data and to extract actionable insights. However, it can be more difficult to secure buy-in for a corresponding level of cyber security measures and for enhanced, consistently applied measures to ensure regulatory compliance. When profit can be readily scented, and as competitive pressures mount, risk management can slip down the list of priorities.

Data protection responsibilities must be high on any retailer's list of priorities. For retailers operating within the European Union, and for overseas retailers looking to do business within EU member states, a major overhaul of data protection law is underway. The European General Data Protection Regulation (GDPR) comes into force on 25 May 2018. It catches both data controllers and processors within the EU, as well as those outside the EU, whose processing activities relate to the offering of goods or services (even if for free) to, or monitoring the behaviour (within the EU) of, EU data subjects.

A key GDPR objective is to ensure that data protection is a board-level issue, and not just an IT bolt-on. Significantly enhanced financial penalties, with administrative fines of up to 4% of an undertaking's worldwide turnover, or €20 million, demonstrate serious regulatory intent.

There are also enhanced requirements to compensate anyone who suffers as a result of a data breach, extending to distress as well as to any directly provable monetary damage.

BREXIT?

The UK referendum result may have raised doubts about the need for investment and preparation for the GDPR. Should organisations continue to prepare for GDPR compliance? In our view, the best advice is to continue with preparations either for compliance with the GDPR itself, or with UK legislation that would be likely to be in substantially the same form.

Until actual withdrawal from the EU, the UK remains a member state and directly subject to the GDPR. Even if the GDPR has direct application for only a short period, the risk of substantial sanctions for non-compliance would apply.

Even after the UK ceases to be a member state, the GDPR's provisions will still be relevant to UK businesses. First, it has extra-territorial effect – it applies to organisations outside the EU that offer goods and services to individuals in the EU or monitor their behaviour. Second, continued trade with the EU, and the exchange of personal data, will almost certainly depend upon adequate data protection laws being in place and an adequacy decision from the European Commission in respect of the UK. This would likely necessitate the adoption of the GDPR or laws equivalent to it to replace the current Data Protection Act.

Similar practical effects would be likely to occur if the UK were to negotiate any form of continued access to the single market, perhaps on the European Economic Area or "Norway" model. Any such deal would be likely to require the UK to sign up to the GDPR (or laws equivalent to it).

At a practical level, the legal analysis is arguably superfluous for businesses that operate across Europe. For a retailer seeking economies of scale through a standardised offering, the GDPR will be the principal compliance regime, even if it is not applicable in the UK. For instance, if a UK member of a European group procures the services of a data processor for the benefit of the wider group, the requirements of the GDPR in terms of contractual provisions, cross-border transfers and apportionment of liability still needs to be considered and addressed.

Our advice is to continue to plan for compliance with the GDPR, ensuring for example that privacy impact assessments are carried out properly and consistently. On any currently credible projection, UK businesses will probably have to either comply with the GDPR itself, or with new UK legislation closely modelled upon it.

While this approach might risk over-compliance (and so each project will need to be considered on its facts), that risk pales alongside the substantial financial and business risks that would potentially attend non-compliance.

DSM?

Similar conclusions apply to the digital single market agenda (DSM) currently being developed as an EU Commission priority. Key elements of the DSM proposals published in December 2015 point towards full harmonisation of consumer protection laws where goods and services are sold online. Other proposals include prohibition of "geo-blocking" unless objectively justified – with a string indication that there can be no justification for blocking access in any EU member state to online content sold in another. Again, the UK's continuing business relationship with EU member states will mean either that DSM or a regime closely modelled on DSM is likely to apply. Prepare for compliance, and avoid the risk of exclusion from key markets.

BEYOND MERE COMPLIANCE

The risks that flow from hacking or data breach are, of course, not confined to administrative fines and a potential liability to compensate anyone directly affected. As many businesses have already found a major data breach can inflict serious reputational damage, in some cases triggering sharp falls in share value and fatally undermining consumer trust and confidence.

UK-based fraud prevention company Semafone found in 2015 that 86.55 percent of 2,000 respondents stated that they were "not at all likely" or "not very likely" to do business with an organization that had suffered a data breach involving credit or debit card details. The numbers were slightly lower if home and email addresses and telephone numbers had been lost. In a 2011 US-based report Experian and the Ponemon Institute concluded that the reputational fallout from a serious data breach can shave between 17% and 31% from brand value.

Data protection is a matter of law. Cyber-security is a matter of survival.

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"EVEN AFTER THE UK CEASES TO BE A MEMBER STATE, THE GDPR'S PROVISIONS WILL STILL BE RELEVANT TO UK BUSINESSES..."

THEFT PREVENTION MEASURES: AN INVASION OF PRIVACY OR JUSTIFIED PROTECTION?

ESYLLT GREEN
EMPLOYMENT LAW ASSOCIATE
CAPITAL LAW

DO THEFT PREVENTION MEASURES LIKE CCTV AND SEARCHES INVADE EMPLOYEE PRIVACY, OR DO THEY AFFORD JUSTIFIED PROTECTION FOR RETAILERS?

Workers in the retail sector are very fortunate in some ways. Surrounded by shiny new goods that we all covet, who wouldn't envy the customer adviser demonstrating a newly released gadget, or a beautifully soft leather handbag?

However, whilst workers are free to enjoy being amongst these goods during working hours, for some employees, the temptation has proven too much.

Retailers increasingly face a daily battle in dealing with the theft of goods by staff, and dishonesty allegations are all too common in an HR professional's work load.

To tackle this, retailers have long employed a variety of measures – some of which have been heavily publicised recently – but when does prevention start to infringe privacy?

ASOS were recently condemned by unions for their theft prevention measures. Their decision to increase the number of CCTV cameras that monitor staff in their warehouse was heavily criticised as contributing to a 'big brother' culture, and infringing employee rights. Sports Direct owner Mike Ashley, too, had to justify his company's searching procedures at its Derbyshire warehouse to MPs, after hugely negative media coverage of the practices in place.

Understandably, views on theft prevention measures differ widely between those subject to them, and those implementing them.

But, while employees may find CCTV or search procedures invasive, a study by the University of Leicester in 2006 considered the views of offenders and retailers, and found that CCTV and consistent staff searching procedures was a genuine deterrent to those tempted to steal.

It's a difficult balance, but what is an employer legally entitled to do?

EMPLOYEE RIGHT TO PRIVACY

Firstly, it's important to understand to what extent an employee's privacy is protected in the workplace. The Article 8 right under the European Convention of Human Rights (ECHR) – the right to a private life – is not directly enforceable against a retail company.

However, the United Kingdom's Human Rights Act of 1998 requires courts to interpret domestic law in accordance with the rights within the ECHR. This means that any actions that could be construed as infringing the right to a private life could bolster an employee's claim under UK law.

For example, in a constructive unfair dismissal claim based on allegations of breach of the implied duty of trust and confidence, any evidence an employee can rely on that suggests an infringement of Article 8 rights, could strengthen their prospects of success.

SEARCHING

With regards to searching an employee's person, it is a fundamental principle of the law in the UK that a person's body is inviolate. To engage in any kind of physical contact without the person's express consent could constitute criminal offences of assault and battery.

In an employment context, searching without consent would almost certainly be a breach of the implied duty of mutual trust and confidence.

Commonly, the way around this is for employers to have express provision in the contract of employment or contractual part of a staff handbook that allows them to carry out searches; the employee will then be deemed to have given consent.

This method is not legally foolproof, and employers should be wary of considering this as blanket protection.

If an employee refuses to be searched - even if they've signed a contract giving express permission - an employer should be aware that this could have the effect of deemed consent being withdrawn. In such circumstances, an employer could discipline the employee on the basis that their actions have amounted to a breach of contract or a refusal to carry out a reasonable instruction.

The key principle to minimise issues arising out of a requirement to search is to have a clear written policy, explaining how and why searches are carried out, identifying who within the organisation can carry out searches and the consequences of failure to cooperate.

CCTV MONITORING

Considering the use of CCTV, the principles surrounding the use of personal data (to include an image of a person) are set out in the Data Protection Act 1998. Whilst monitoring employees is not prohibited, the Information Commissioner's Code of Conduct requires employers to consider the justification for monitoring and assess its benefits against the potential adverse impact on individuals.

ESYLLT GREEN, CAPITAL LAW, CONSIDERS THE BALANCE BETWEEN EMPLOYEE PRIVACY AND EMPLOYER PROTECTION WHEN USING THEFT PREVENTION MEASURES IN RETAIL

Most important is the requirement to notify employees of when and where they are being monitored by CCTV. Any covert monitoring is not acceptable.

PRACTICAL TIPS

While the legal complexities of different measures and implementations of theft prevention in the retail sector can be confusing for employers and employees to understand, there are several practical tips that can help avoid grievance situations.

Firstly, transparency is crucial. If employees are clearly informed of:

- the reasons why monitoring is necessary
- when a search may be carried out
- in which areas CCTV will be used
- what the employer is looking for
- how consent will be obtained
- the consequences of refusal
- the consequences if any evidence of dishonesty is found
- how employees can raise complaints if they are unhappy

then the employer can successfully deploy these deterrent measures.

In fact, transparent and sensible measures may actually become welcomed by employees. The vast majority of honest employees will be able to see the benefit of having clear, irrefutable evidence such as a CCTV recording, and understand the protection this would afford them in any wrongful claim.

While perhaps initially difficult to construct and implement, theft prevention measures in a retail workplace can be truly beneficial to the organisation's overall culture. A clearly communicated, open approach – which may need to be developed with the help of an HR team or organisational change consultant – can help to prevent any unfairness in a disciplinary procedure, and substantially minimise the risk of unjust sanctions or reputational damage.

For more information on employment law advice or HR consultancy services, please contact;

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DEALING WITH THE COST OF THE NATIONAL LIVING WAGE

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COSTS ARE RISING FASTER THAN CUSTOMER SPENDING

The National Living Wage that was introduced in the UK on 1st April constituted a seismic shift in the retail landscape. Amongst other industries that employ low-wage workers, retail stands out because of its highly competitive nature and often tight profit margins.

In this article, we will cover two areas:

1) ways in which we will be challenged by the National Living Wage (hereafter NLW),
2) What we as retailers can do to mitigate the negative effects these challenges might introduce.

Before we look in more detail at what can be done, let's establish exactly what has changed. The Department for Business Innovation & Skills lists the following description of NLW:

> "FROM 1 APRIL 2016, THE GOVERNMENT INTRODUCED A NEW MANDATORY NATIONAL LIVING WAGE (NLW) FOR WORKERS AGED 25 AND ABOVE, INITIALLY SET AT £7.20 - A RISE OF 50P RELATIVE TO THE CURRENT NATIONAL MINIMUM WAGE (NMW) RATE...THE ADULT NMW RATE IS CURRENTLY £6.70. THIS WILL CONTINUE TO APPLY FOR THOSE AGED 21 TO 24."

Additionally, the government has set a target of incrementally increasing the NLW to £9.00 an hour by 2020.

HOW WILL THIS CHALLENGE US?

The challenges we will face will vary a great deal based on individual circumstances. However, there are some common factors that most retailers will experience:

1) PAY DIFFERENTIALS
1/3 of low-wage workers employed in UK retail are below the age of 25. However, the NLW does not apply to these employees. Thus, we will need to act to mitigate the effects of the pay differential amongst low-wage employees.

> THE GOVERNMENT HAS SET A TARGET OF INCREMENTALLY INCREASING THE NLW TO £9.00 AN HOUR BY 2020.

2) WAGE SQUEEZING
Higher performing, higher paid workers now see their wages are in some cases equal to that of employees who have received an increase via NLW. They would reasonably expect to see their wages rise in an equal manner to recognise their responsibilities or skills.

3) MOTIVATION
Businesses will naturally try to offset the increased costs of the above factors by reducing staff benefits. Some staff will accept these changes easily and others will not.

Chief Economist for the Chartered Institute of Personnel, Mark Beatson, has this to say on the above challenges:

> "SIMPLY MAKING LOW-PAID LABOUR MORE EXPENSIVE IS NOT THE ANSWER, AND THE GOVERNMENT SHOULDN'T BE SURPRISED IF SOME EMPLOYERS CHOOSE EASIER OPTIONS, SUCH AS REDUCING HOURS, CHIPPING AWAY AT OTHER BENEFITS OR MAKING A LESS GENEROUS PAY AWARD THE NEXT TIME PAY IS REVIEWED."

WHAT CAN WE DO TO MITIGATE THE EFFECTS?

Understanding and adapting to the changing retail landscape is always a high priority. We have identified four main areas that retailers can focus on in order to meet the challenges raised by the NLW.

1) CALCULATE THE EFFECT ON YOUR BUSINESS
Reports compiled by the Centre for Retail Research suggest that in the first year, retailers can expect to pay over £1million more in wages for low-paid workers over 25. However these calculations recognise that figures will vary widely based on hours worked and percentage of employees working part time. Because of the varying factors in retail operating costs, it will be important to conduct a thorough review of your wage-structures moving forward.

2) REVIEW ORGANISATIONAL STRUCTURES, PARTICULARLY FOCUSING ON CROSS-CHANNEL INTEGRATION
The increased cost from the NLW will prompt retailers to fast-track omni-channel projects to ensure the talent at their disposal is used efficiently. This is not a surprise as we have known for some time that there are significant productivity gains to be made in breaking down inter-department silos.

It is time to thoroughly review our organisational structures and identify areas where cross-channel integration can yield cost benefits. Given the increased pressures of the NLW, below-average inter-departmental communication is no longer an excuse for reduced productivity.

Examining your general operation efficiency is also beneficial at this stage. This is an optimal time to review all your business processes to ensure they are lean and labour efficient.

3) REVIEW YOUR TECHNOLOGY PLATFORM

New retail technology tools are being unveiled at pace. Rising costs might seem like a reason to reduce investments in experimental technology; however, a clear understanding of what is on the market and worth investing in is paramount to maintaining the competitive edge in difficult times.

Tools already exist that can give you an edge in operational efficiency. For example, Vision Critical is a customer feedback mechanism already in use at Asda that helps to better target product investment to cater to your customers. Beekeeper is another tool that exemplifies the high level of innovation and diversity in the retail technology market. Beekeeper is an app that can be used to keep in contact with employees that are not set up with email addresses like shop floor staff. Effective use of tools such as these can provide significant value in terms of cost savings. We would also suggest keeping particularly apprised of technologies that can reduce your labour burden e.g. self service machines.

4) INVEST BASED ON YOUR FINDINGS

Acting to cut costs based on limited information is never a good idea. Avoid this by thoroughly following the first three steps in this process. Reviewing your organisation and technology platform will no doubt suggest many changes of varying significance.

Now more than ever, you need to ensure you have the direction, tools and investment required for success.

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"IN THE FIRST YEAR RETAILERS CAN EXPECT TO PAY OVER £1MILLION MORE IN WAGES FOR LOW-PAID WORKERS OVER 25"

JUSTIFIED? UNJUSTIFIED? REFORM TO THREATS ACTIONS – WHAT IT MEANS FOR RETAILERS

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A LOOK AT THE PROPOSED CHANGES TO INTELLECTUAL PROPERTY (IP) LAW PROPOSED BY THE INTELLECTUAL PROPERTY (UNJUSTIFIED THREATS) BILL WHICH WAS INTRODUCED IN THE QUEEN'S SPEECH TO PARLIAMENT IN MAY 2016.

The issue of reform of threats actions has been ongoing for some time.

EXISTING POSITION

Under English law, threat provisions are contained in IP legislation relating to patents, registered trade-marks, registered/unregistered design rights. A threat is anything (oral or in writing) that a reasonable person may understand to be a threat to bring proceedings in respect of an IP infringement. The rationale for the introduction of threats provisions was to meet the concern that, irrespective of whether an IP right is valid or not, when threatened with being sued for infringement of IP, retailers may simply decide to give in and cease sale of the affected products rather than becoming involved in lengthy and costly litigation with the resulting damage to their business. For retailers, commercial capitulation trumps a legal battle – better simply to source alternative products elsewhere.

The relevant IP legislation provides that any person making unjustified threats is liable to any person aggrieved by the threat of proceedings, e.g. a retailer threatened. This means that it is not only the person against whom the threat has been made, e.g. a manufacturer, that can sue but anyone who can show that their commercial interests are, or are likely to be, adversely affected in a real way.

There are a number of exceptions whereby it is possible for threats to be made against suspected infringers which will not give rise to a threats action, for example where it is alleged that a trader has applied an IP holder's trade mark to goods or packaging, however, the exceptions are limited. The rationale behind the exceptions was to allow IP holders to notify "primary" infringers that they will be sued but "secondary" infringers (such as retailers) would still be protected from unjustified threats

> GIVEN THE CURRENT STATE OF FLUX POST-BREXIT, IT REMAINS UNCLEAR WHETHER THIS BILL WILL EVER SEE THE LIGHT OF DAY

The remedies available to those who have been unjustifiably threatened are serious and include a declaration that the threat is groundless, damages, and an injunction against any further threats being made.

It is important for IP holders to be very careful when writing to suspected infringers of their IP as, if a threat is made, they may suddenly be faced with a threats action and be required to prove that the threats were justified and that their IP rights are valid and have been infringed. The effect of this could be to put the IP holder on the back foot in any proceedings.

So, how do you recognise an unjustified threat? The relevant IP legislation provides that a mere notification of rights will not amount to a threat, but any communication that goes beyond this would fall foul. Given the potential impact of a threat, the Courts have adopted a very narrow interpretation such that IP holders are required to take great care when issuing cease and desist notices. What is important is that when deciding whether to make a threat of proceedings or simply provide a notification of rights, an IP holder needs to weigh up whether it has sufficient evidence of infringement to justify the threat and the importance it attaches to the particular IP right. Currently, solicitors may be liable for threats made on behalf of their clients.

PROPOSED REFORM

Given the complicated state of the law, in April 2014, the Law Commission published its recommendations for simplifying this area. It recommended that protection against groundless threats should be retained but reformed. In particular, in certain circumstances it should be possible to communicate with someone who would otherwise be able to bring a threats action. This would allow disputing parties to exchange information and try to settle their differences. In addition, it recommended that professional advisers acting on instructions should not face personal liability for making threats.

These reforms have now been included in the Intellectual Property (Unjustified Threats) Bill, which is currently before Parliament and, if enacted as expected, will provide far greater clarity as to the circumstances in which threats actions may be brought.

The bill sets out that communications containing a threat will be permitted if:

1. The communication, so far as it contains information that relates to the threat, must be made solely for a permitted purpose namely to give notice that the IP right exists or to discover if the right is being infringed and by whom or to give notice that a person has an interest in the right in circumstances where some other cause of action is dependent on another person's awareness of that fact.
2. All of the information that relates to the threat must be information that is necessary for that purpose.
3. The person making the communication reasonably believes that the information is true.

Some commentators have called for the complete abolition of the threats regime. Whilst the underlying purpose of the threats regime, of protecting traders from abusive claims by IP holders which would cause damage to businesses, is a necessary check, there is a little doubt that the current regime has introduced uncertainty into this area, and an element of risk that could have the effect of preventing IP holders from properly asserting their rights at an early stage, which in turn may prevent the early resolution of disputes.

The bill provides much needed further clarity to the area of unjustified threats; however, IP holders will still need to give very careful thought to the precise content of any letters to suspected infringers so as not to fall foul of the proposed amended legislation, particularly if the Courts continue to construe the exceptions very narrowly.

Whether the Bill ever gets passed is unclear at the moment, but as is evident, the law relating to threats is complicated. However, even as matters stand, retailers should:

- Carefully consider any communications from IP holders threatening further action
- Take appropriate legal advice regarding a threats action
- Don't just roll-over – a simple notification of a potential threats action may resolve the issue

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"THE BILL PROVIDES MUCH NEEDED FURTHER CLARITY TO THE AREA OF UNJUSTIFIED THREATS"

COMPANY VOLUNTARY ARRANGEMENTS - FRIEND OR FOE?

MIKE JERVIS
PARTNER, HEAD OF DEALS RETAIL, CONSUMER AND LEISURE
PWC

COMPANY VOLUNTARY ARRANGEMENTS (CVA) HAVE ATTRACTED CONSIDERABLE NEGATIVE PRESS COVERAGE, PARTICULARLY IN THE RETAIL SECTOR WHERE LANDLORDS OFTEN FEEL DISADVANTAGED BY THE PROCESS. THE CVA HAS BEEN DESCRIBED AS AN "UNFAIR" PROCESS, WHICH IS PRESENTED AS A "FAIT ACCOMPLI" AND GIVES CREDITORS "NO TIME TO REACT".

These are all terms that previously have been used in relation to pre-packs, although comparisons with other processes such as administration are seldom fully understood. This article examines why so many CVAs fail.

IT'S ABOUT THE BUSINESS NOT THE CVA

A successful restructuring requires careful analysis of the business, its financial position and its prospects. A CVA is not a panacea for a business' lack of funding, weak product offering or poor quality management.

The closure of underperforming stores is often used in the restructuring of retail and other multi-site business, but it is important to understand that this is only part of the solution. JJB Sports, for example, went through two CVAs, but still ended up in administration, when only a small percentage of its stores were sold and for a fraction of book values.

Customers had lost interest in the product offering and nothing was achieved by the CVAs. In comparison, Travelodge and Fitness First have thrived after a CVA, because both have a clearly defined and funded customer proposition.

Often, there is not enough independent scrutiny of the overall business and its operational plan when a CVA is proposed and boards may take a narrow view of the impact of the CVA. The advice given by some insolvency practitioners does not help this process.

COLLECTIVE PROCESS AND COMMUNICATION

The CVA process was not designed to target a particular group of creditors, such as landlords. The CVA was introduced as part of the 1986 Insolvency Act and is a collective process, as borne out by the fact that all unsecured creditors vote on it.

Unsurprisingly, if disadvantaged parties see their losses being ratified by a vote, which includes creditors who are not affected, they take umbrage and feel disenfranchised. This does not enhance the company's relationships with these key stakeholders and a sense of mistrust continues, often until the business fails.

In this respect, a consultation period needs to be considered. The CVA allows for a 21-day notice period, although creditors often feel that, in practice, they have very little time to react. A good CVA needs some market testing, which is not always easy to accomplish, but is in keeping with the original intentions behind the introduction of the process.

CONSIDERATION OF OTHER PROCESSES

Any CVA proposal has to demonstrate that it is the best process available. If it is not, creditors might prefer an alternative. The calculations in CVA proposals comparing CVA outcomes with other processes can be too simplistic. They often compare the continuity of the business post CVA - even if the process does not have solutions to all of the company's issues - with an effective liquidation, ignoring the spectrum of outcomes in between.

Assuming some form of insolvency is necessary; landlords like the individual interaction they have with the insolvency tenant in, for example, an administration. This is because the insolvent tenant has to deal with each site (dealing with surrender, assignment, continuation and sub-letting).

As a result, landlords often feel that they are less likely to be misled into agreeing to a deal where they have had very little dialogue and instead each site can be considered on its individual merits.

SHAREHOLDER CONTRIBUTION

The CVA process was introduced into insolvency legislation with a strong hint in the wording that a proposal might involve new money coming in from shareholders to match the compromises and concessions made by creditors. In other words, the CVA was envisaged as being a deal. The successful Mamas and Papas CVA included this feature, which is also one of the few successful examples of the process.

In conclusion, achieving a successful CVA is not easy. If you or your clients are being advised to consider a CVA, it is important to remember:

- The underlying business has to be viable and the CVA is just one part of the solution, not the whole solution;
- If you have to change contractual terms with your creditors, engage with them as early as possible, so that they trust you and trust the process;
- Creditors will feel that a process in which shareholders also contribute to the solution has a better chance of succeeding; and
- A CVA is not the only process to consider - it has been touted as a quick process, with management remaining in control. However, it has been proven empirically that larger restructurings involving consensual solutions, or using administration, have a better survival rate.

If you would like to learn more about the CVA process, please contact Mike Jervis.

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"OFTEN, THERE IS NOT ENOUGH INDEPENDENT SCRUTINY OF THE OVERALL BUSINESS AND ITS OPERATIONAL PLAN WHEN A CVA IS PROPOSED..."

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All of the companies listed in the Retail Services Directory are Associate Members of the BRC, and a listing is one of the many benefits of membership.

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