THE RETAILER

WINTER 2016-17

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NEWS FROM THE BRC

STRONG FINISH TO A ROLLER-COASTER YEAR

- UK retail sales increased by 1.0% on a like-for-like basis from December 2015, when they had increased 0.1% from the preceding year.
- On a total basis, sales rose 1.7%, against a 1.0% increase in December 2015. This is in line with the 3-month average of 1.8% but faster than the 12-month average of 1.2%.
- Over the three-months to December, Food sales increased 1.1% on a like-for-like basis and 2.4% on a total basis, clearly ahead of the 12-month Total average growth of 1.0%. This is the highest 3-month average Total growth since September 2013.
- Over the three-months to December, Non-Food retail sales in the UK rose 1.1% on a like-for-like basis and 1.3% on a total basis. This is in line with the 12-month Total average growth of 1.3%. This is the lowest Non-Food 12-month average Total growth since October 2012.
- Over the three-months to December, Online sales grew 7.2% while In-store sales declined 1.2% on a Total basis and 1.4% on a like-for-like basis.

HELEN DICKINSON OBE, CHIEF EXECUTIVE, BRITISH RETAIL CONSORTIUM
“December is the most important trading period of the year and with sales across 2016 growing more slowly than the previous year, it was all to play for in the final month. Despite the slow start to the Christmas trading period, the week itself was a bumper one and exceeded expectations. It delivered the majority of sales growth for the month, proving even bigger than the Black Friday period- which is the reverse of what we saw the year before.

“It was a polarised month as shoppers held out for the Christmas week, which saw sales up around 40 per cent compared with the other weeks of the month. Food sales were the major contributor to total growth, while non-food sales on the other hand were sluggish overall, despite a strong performance by categories driven by gifting items.

“In the end, total growth for 2016 was 1. 2 per cent; a marginal increase in pound terms over the previous year but lower than the year-on-year growth achieved in 2015. The challenge for retailers in 2017 will be to create real growth against a backdrop of growing inflationary pressures and persisting economic and political uncertainty. To this end we’ll be continuing our work with Government to encourage policies that help retailers keep prices down for consumers.”

63 BILLION PAGES VIEWED ON RETAIL WEBSITES OVER THE FESTIVE PERIOD

- The number of visits to UK retail websites totalled 4.6 billion in December. This is up 3% year-on-year.
- Almost 63 billion pages were viewed on retail websites in December, averaging just over 12.5 billion page views per week.
- An average time of 6 minutes 35 seconds per visit was spent on retail websites in December, lower than the 06:49 in November.
- The average number of pages viewed per visit for all retail websites was 13.6.
- The proportion of total retail visits made on Mobile devices was 52% in December, unchanged from November.

RACHEL LUND, HEAD OF RETAIL INSIGHT AND ANALYTICS BRITISH RETAIL CONSORTIUMM
“December set a record for online activity with nearly 63 billion pages, up two per cent on a year earlier, so it’s no surprise that online took its highest share of Christmas spend ever.

“It’s a well-worn observation that online is consistently outpacing store growth and we expect to see that continue for years to come. However, Christmas presents some interesting challenges for e-retail. The constraint of delivery means that as the day itself approaches, shoppers prefer to spend in stores rather than via the web. Consistent with this we can see browsing activity slowed as the 25th got nearer as total sales picked up. It’s the same pattern we saw last year, but as retailers evolve their online delivery strategies in the future we could see this trend change.

“Browsing activity picked up again in the final week of the month and was considerably higher than last year. This was at least in part due to Boxing day which fell on the most popular shopping day of the week, Monday, and served up weather that encouraged people to stay indoors browsing the sales, but may also suggest a wider shift towards combining shopping with other family activities on the day after Christmas.

“Overall, it was a solid end to a challenging year for retail; a year which was carried by growth in online sales. This only serves to highlight the importance for retailers of continued investment in their digital platforms”

FOR REGULAR INSIGHT INTO UK RETAIL SEE, INCLUDED IN YOUR BRC MEMBERSHIP: BRC.ORG.UK/RETAIL-INSIGHT-ANALYTICS

WHY THE CHRISTMAS SPARKLE SHOULDN’T DAZZLE THE CHALLENGES AHEAD

HELEN DICKINSON
CHIEF EXECUTIVE OBE
BRITISH RETAIL CONSORTIUM

AFTER A ROLLER COASTER YEAR FOR RETAIL SALES, RETAILERS ACROSS THE COUNTRY HELD THEIR BREATH HEADING INTO CHRISTMAS WEEK. YET DESPITE THE TREPIDATION, THAT WEEK GIFTED THE INDUSTRY WITH A MUCH NEEDED STRONG FINISH TO A BUMPY YEAR, ACCORDING TO THE BRC’S NEW FIGURES. BUT WHAT DOES THIS REALLY MEAN FOR BRITISH RETAIL AND HOW DO THINGS LOOK FOR THE YEAR AHEAD?

December is the most crucial, and unique, trading period of the year. With sales across 2016 growing more slowly than the previous year, it was all to play for in the final month. Despite the slow start to the Christmas trading period, Christmas week was a bumper one and it certainly exceeded expectations.

This was welcome news for the industry as the wider trend saw total growth for 2016 slow to 1.2 per cent from the 1.8 per cent achieved in 2015. Sales at the beginning of the festive trading period were sluggish though, with shoppers holding out until the week leading up to Christmas for their festive spending sprees. It was Christmas week itself that drove the majority of sales for the month, helped by the late timing of Christmas day and with food and drink driving the bulk of the growth.

But Christmas week aside, there will be some bumps ahead in 2017 as retailers face a perfect storm. With a weak pound input costs are rising fast and retailers face the introduction of the Apprenticeship Levy, another uplift in the National Living Wage and further increases in business rates as well. Indeed, this is all against the backdrop of political and economic uncertainty, slow growth in the market generally and the continued need to invest in digital and the customer experience to respond to the transformational changes in the way people shop.

Retailers have always shown capability to absorb cost pressures, find efficiencies and take cost out of the supply chain. But looking ahead, there are serious question marks over their ability to continue to do this. Stiff competition and market disruption have kept prices down, greatly benefitting ordinary shoppers.

The signs point to an end of this sustained nearly four-year period of deflation and a trend of shop prices starting to rise. With the subsequent squeeze on household disposable incomes, consumer spending - the biggest driver of economic growth since the financial crisis- will inevitably take a hit.

We, the BRC, are encouraging policies that help retailers keep prices down for consumers, provide confidence to the market and don’t add further pressure to disposable incomes.
Our top priority is ensuring consumers are at the heart of the forthcoming Brexit negotiations to ensure that cost burdens are not exacerbated. In particular, this means no new tariffs on imports, particularly on food, where the cost implications would be highest.

More twists and turns lie ahead in 2017. The outlook is certainly tough and the challenge for retailers will be to create growth against a backdrop of increasing inflationary pressures and unprecedented economic and political uncertainty.

Indeed, it will be the resilience, enterprise and sheer hard work of our world leading British retailers that will help keep prices down, deliver great service for customers – and ultimately - see the industry successfully through the year ahead.

FUTURE EVENTS

FUTURE RETAIL LEADERS LECTURE 31 JANUARY 2017, LONDON	The lecture inspires the new generation of our industry; encouraging our future leaders to realise their full potential and support their professional development within their businesses.
BRC CX 23 MARCH 2017, LONDON	This event will support the needs of retail and IT decision makers and executives responsible for supporting all aspects of the customer selling process. This all new one-day conference will focus on customer experience, data analytics personalisation and omni-channel retailing.
RETAIL 2020 16 MAY 2017, LONDON	The changing nature of the consumer and channels to shop are forcing retailers to rethink their fundamental structures. Coupled with new regulatory pressures and an evolving political landscape the latest information is essential to operate ahead of the curve. A new flagship event from the BRC will provide a forum for sharing and learning across the changing face of retail; exploring the evolving workforce, the impact of NLW and Apprenticeship Levy, productivity and future leadership.
EXECUTIVE ROUNDTABLE DINNER (PRIVATE EVENT) 24 MAY 2017, LONDON	In association with Web Loyalty. For registration details please email events@brc.org.uk
SCOTTISH RETAIL CONSORTIUM ANNUAL RECEPTION 14 JUNE 2017, EDINBURGH	The annual Scottish summer parliamentary reception. Keynote speaker yet to be confirmed.
ANNUAL RETAIL LECTURE 22 JUNE 2017, LONDON	No other single speech in the retail calendar has the power to set the agenda and motivate its audience, quite like the Annual Retail Lecture.

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BRC FUTURE RETAIL LEADERS LECTURE 2017

INFORMING THE NEXT GENERATION OF LEADERS

31 JANUARY 2017
30 EUSTON SQUARE, LONDON

IN ASSOCIATION WITH KRONOS

#BRCRetailLeaders

If you would like any information, or to book your place, please contact **events@brc.org.uk**

SPEAKERS

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CHIEF EXECUTIVE
KRONOS INCORPORATED

KAREN HUBBARD
CHIEF EXECUTIVE
CARD FACTORY

AGENDA

18:00	Registration and refreshments
18:30	WELCOME FROM THE CHAIRPERSON - **Helen Dickinson OBE**, Chief Executive, BRC Address on Retail 2020 and the workforce survey
18:50	PARTNER WELCOME - **Aron Ain**, CEO, Kronos Incorporated.
19:00	LECTURE **Karen Hubbard**, CEO, Card Factory.
19:35	Q&A Interview by Sponsor or BRC representative and questions from the audience
19:50	NETWORKING AND DRINKS

EVERYTHING MUST GO: CYBER SECURITY IN RETAIL

JAMES HAMPSHIRE
MANAGER
PWC

JAMES RASHLEIGH
DIRECTOR
PWC

RETAIL AND CONSUMER ORGANISATIONS ARE REGULARLY SUFFERING DATA BREACHES BUT ONLY 58%* HAVE AN OVERALL SECURITY STRATEGY.

THE RETAIL SECTOR UNDER ATTACK

All sectors face a range of cyber threats, but the retail sector appears particularly badly hit. PwC's annual Global State of Information Security Survey 2017 found that organisations in the retail and consumer sector suffered on average over 4,000 security incidents over the preceding 12 months. 16% of organisations surveyed suffered losses of over $1 million as a result of these incidents.

The statistics make worrying reading, but are brought vividly to life by the details of actual attacks. One of the most well-known attacks on a US retailer led to significant losses as well as senior company resignations; the company's brand also suffered, with its name and the breach becoming interlinked and a familiar term of reference.

Retailers in the UK are also suffering, with a number of high profile breaches over recent years.

WHO ARE THE ATTACKERS AND WHAT DO THEY WANT?

At its heart cyber security is not a technical issue; it is about motivated individuals and groups seeking to do something malicious to your organisation.

The biggest threat facing the retail sector is financially motivated cybercrime. Top end cyber criminals are getting better, whilst at the same time cybercrime tools and techniques are traded in online criminal forums, lowering the bar to entry to less skilled individuals. Personal and credit card data are high value targets for cyber criminals, who trade them on online marketplaces (ironically many of these mimic the online retail channels used by the organisations they have targeted). Increasingly organisations are also being targeted by sophisticated frauds which aim to trick employees to transfer funds to the attackers, often using emails purporting to come from the CEO or senior executives (dubbed "whaling" attacks).

Recent years have also seen protest moving online, with traditional activists using cyber attacks to promote their causes and the emergence of online "hacktivist" groups such as Anonymous. Activist attacks are often less sophisticated, usually focus on disruption (for example website defacement and website denial of service) and can be difficult to predict. This latter point is important; retailers may become the subject of an activist campaign due to some perceived grievance, but equally hacktivists target large organisations to give maximum publicity for their cause, even when the target is unrelated.

Although the threat from highly capable nation states is lower for retail organisations than some other sectors, there is still potential for them to be targeted by states seeking to support domestic businesses, seeking information relating to a business transaction (for example an M&A deal) or corporate strategy, or acquiring innovative technology or business processes which give a competitive edge.

RETAIL: A UNIQUE RISK PROFILE

A number of different factors lead to organisations in the retail sector having a unique risk profile.

- **DATA**: retailers are rich sources of personal and card data which are highly valued by cyber criminals. However, it is not just customer data that is at risk; employee data is increasingly being targeted. The EU General Data Protection Regulation (GDPR), which comes into force in 2018 carries penalties of up to €20 million or 4% of global turnover for breaches of personal data, and employees whose details have been lost are increasingly seeking redress through the courts.
- **REPUTATION AND BRAND**: retailers rely on reputation, and attracting and retaining customers is a vital part of retail strategy. Cyber attacks are now headline news and are widely discussed on social media; indeed high-profile media coverage often amplifies reputational damage, meaning relatively minor attacks can have a significant business impact. They can also have an impact on share price.
- **DIGITAL CHANNELS**: online channels are increasingly important to retailers, but adoption of new technologies and payment systems increases the possibilities for attackers.
- **BUSINESS DISRUPTION**: websites, supply chains and payment systems need high levels of availability in retail environments. This can be exploited by attackers, who can disrupt business operations through ransomware and denial of service attacks against online platforms, leading to revenue loss.
- **DEALS AND ACQUISITIONS**: loss of confidential data on deals, planned M&A strategies and other financial arrangements, (e.g. with key suppliers) can erode retailers' competitive advantage.

Although IT departments have a key role to play in protecting against and responding to cyber attacks, the impact of a successful attack is the loss of revenue, reduction in share price, loss of customer and investor confidence; all issues that should be squarely on the board's agenda.

WHAT SHOULD RETAILERS DO?

The most effective thing that retailers can do is set the tone from the top. The best defended organisations have a board that is informed about cyber security, makes risk-based decisions, prioritises investment, empowers relevant parts of the business and is ready to respond quickly and decisively in the event of a breach. However, the whole organisation should be engaged on cyber security; 33%* of security incidents involved phishing emails and it is often a junior, non-technical employee who is vulnerable.

Organisational cyber security maturity is a journey; unfortunately there is no magic bullet. Boards and senior leadership should be asking six key questions:

1. Do we understand the threat?
2. What business impact would a breach have at a strategic level?
3. What is our risk appetite?
4. Are our defences appropriate to the threat, the potential impact and our risk appetite?
5. Are we ready to respond quickly and effectively to a breach?
6. Can we trust our defences on an ongoing basis?

**Source: The Global State of Information Security Survey 2017*

ABOUT THE AUTHORS

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> "THE EU GENERAL DATA PROTECTION REGULATION (GDPR), WHICH COMES INTO FORCE IN 2018 CARRIES PENALTIES OF UP TO €20 MILLION OR 4% OF GLOBAL TURNOVER FOR BREACHES OF PERSONAL DATA."

RISK-BASED AUTHENTICATION: IMPROVING SECURITY FOR RETAILERS WHILE REMOVING FRICTION FOR CONSUMERS

KEVIN JENKINS
MANAGING DIRECTOR
VISA UK & IRELAND

IN A WORLD OF DYNAMIC TECHNOLOGY AND RAPIDLY EVOLVING CONSUMER BEHAVIOUR, AUTHENTICATION CAN BE BETTER AND MORE EFFECTIVELY PERFORMED BY USING SMARTER METRICS.

No matter what statistics you look at, they all seem to agree: e-commerce and m-commerce are a huge and growing opportunity for retailers. Today, more than 20% of total spending processed by Visa in Europe now comes via the e-commerce channel[1], while 59% of UK consumers now use a digital wallet[2] for payments.

With so many new ways to shop, retailers must ensure a fast and convenient shopping and payment experience for customers across all these channels without sacrificing security. Online or mobile shoppers are likely to abandon purchases at checkout if they have to go through complicated verification processes. On the other hand, fraudsters are increasingly moving online, and deploying ever more sophisticated attack techniques, making authenticating today's online shoppers more complex, and more essential.

The solution to striking the right balance between convenience and security could come in the form of 'risk based authentication'. The approach uses tracked customer data in order to create a risk profile of the potential buyer. This can be through a wide variety of measures including behavioural checks (e.g. does a cardholder typically make purchases in a certain currency), device profiling (is a device used to purchase typically used by a cardholder, is it in an 'expected' location) or, from the other side, merchant checks (e.g. does the merchant typically generate a large proportion of fraudulent transactions).

The process evaluates transactions in real-time, and only looks for "strong" authentication for the small proportion that appear to be risky. If a transaction is low risk, then asking for strong authentication will make it harder for the consumer to pay, create more complexity for retailers and increase the time and cost for transactions to be completed. In short, it's about knowing genuine customers better to minimise false positives and accept more legitimate sales.

Machine learning is embedded in the process to ensure parameters are constantly updated so that the system is fully optimised.

Risk based solutions can be integrated directly into an issuer's IT systems or work with services provided by other processors.

More importantly, risk-based authentication works across devices, opening up huge opportunities for retailers to reach shoppers through new channels. 3DSecure 2.0, the latest industry-wide technology backing risk based payments solutions, support transactions from mobile devices and apps, while also providing a foundation for new device types such as connected cars and refrigerators.

At Visa, we have been implementing changes to Verified by Visa (VbV), our online authentication service that is based on 3DSecure. These changes will make digital payments safer and easier for consumers, merchants and financial institutions by adopting a risk based approach and cutting down the use of one-time passwords.

Since we started using risk based authentication through VbV, the benefits to retailers for this method of verification have been made clear from our data. 95% of transactions do not require a further step in the verification process. And for the less than 5% of transactions that are flagged up for further authentication, a one-time dynamic passcode can be sent to the shopper's device, via SMS or email, to verify identity instead of asking him or her to enrol and enter a static password.

New PSD2 regulation from the European Banking Authority (EBA) may impact how it will implement what is called strong customer authentication (SCA). Currently, these plans include a "one size fits all" approach where every online transaction over €10 will require additional steps at checkout – such as entering passwords or registering personal details every time.

Independent consumer research carried out in five European countries on behalf of Visa, highlighted that 95% of European consumers spend over €10 when shopping online, meaning that these measures would affect millions of shoppers.

These steps would be felt most strongly in the UK, however, as UK consumers are the most prolific online shoppers of those markets surveyed – 63% regularly shop online, compared with the European average of 51%.

For UK online shoppers, the changes are likely to lead to more frustration and more cart abandonment. In fact, the survey found that over half (52%) of consumers would abandon purchases if more steps were added to the checkout.
The EBA proposal also states that only a card-issuing bank can make a risk decision, that merchants should have no role in assessing risk. Visa continues to argue that this is a mistake.

Visa believes a competent merchant can be as well positioned to control risk as a card issuer, because they have access to large amounts of equally predictive customer data. Merchant risk management has driven innovation, flexibility, strong risk controls and business growth. Preventing merchants from using their capabilities would mean removing flexible and simple payment capabilities that European consumers currently enjoy. There has been clear evidence that a risk based authentication approach has improved the experience for shoppers and merchants, while maintaining a level of trust with security.

Average transaction time has been reduced from 50 to 10 seconds, while we've seen a 70% reduction in cart abandonment compared to the traditional static password authentication approach. And all this has come at no cost to customer protection, with fraud level remaining flat since the methodology was introduced.

The reduction of friction in any retail setting leads to a better user experience, and with the increased transaction volumes from higher conversion rates, retailers are seeing revenues grow. We've seen merchants' bottom lines benefit as much as their top lines, as savings have been made on customer service costs, with customer calls for password resets falling by 85%.

Ultimately, as technology develops and consumer behaviour evolves, authentication must continue to adapt too in order to remain fit-for-purpose. As payments providers we'll always be looking to find the best way to balance convenience and security for consumers and retailers – reducing fraud while enabling commerce through any channel available.

For more information please visit:

// www.visaeurope.com

VISA

> "RISK-BASED AUTHENTICATION WORKS ACROSS DEVICES, OPENING UP HUGE OPPORTUNITIES FOR RETAILERS TO REACH SHOPPERS THROUGH NEW CHANNELS."

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[1] Visa Vision, 2016 - https://vision.visaeurope.com/blogs/m-commerce-drives-changes-to-authentication

[2] Visa Digital Payments Survey, 2016

CYBER SECURITY INCIDENT MANAGEMENT IN RETAIL; THE LATEST THINKING

ADAM PECKMAN
GLOBAL PRACTICE LEADER FOR CYBER RISK CONSULTING
AON

A REVIEW OF THE BRC CYBER INCIDENT MANAGEMENT SEMINAR.

In October 2016, Aon sponsored the British Retail Consortium's Cyber seminar which was attended by leading experts in cyber security incident management and the UK's largest retailers.

An agenda was created to encourage the free flow of ideas, with retail technology and operations specialists pitched alongside criminal enforcement leaders, the police, Aon's cyber risk consulting specialists and BRC policy advisers.

Owing to the highly sensitive nature of these discussions, the entire day's activities took place under 'Chatham House Rules'. This article provides a high level overview of events.

> "THE EVIDENCE FROM SPEAKERS AND DELEGATES IN THE CONFERENCE ROOM CONFIRMED RETAIL IN THE UK IS A SIGNIFICANT TARGET FOR CYBER CRIMINALS."

Aon took a straw poll of delegates and found the majority expect customer data loss to be the most likely outcome of a breach and that a large incident was either 'quite likely' or 'highly likely' within the next 18 months.

We considered internal and external angles of attack, with panellists and delegates agreeing there remains a significant 'low hanging fruit' problem in some parts of UK retail. This is variously blamed on the continued use of antiquated operating systems, inadequate staff training to avoid the number one cause of malware intrusions – phishing – and the challenges of ensuring data security up and down the supply chain.

I joined the panel and we discussed how phishing and its slightly more sophisticated counterpart 'spear phishing' remain a concern despite most of us having seen evidence of them in our inboxes.

Similarly the unpatched network remains a common vulnerability. Even organisations with formal patch management processes like 'Patch Tuesday' can find themselves open to cyber threat. Put simply, what if a vendor releases a patch on Wednesday and the user waits until the following Tuesday to implement it; this leaves the organisation vulnerable for 6 days.

The threat posed by organised crime groups and hacktivists was considered the most likely cause and it was universally accepted the problem emanates from outside the UK.

China, The United States, Turkey, Russia and Taiwan collectively account for well over 50% of global 'hack traffic' and there was clearly some frustration around the lack of available international resource designed to cope with what is a global problem. Enforcement agencies confirmed at this event that they are ramping up their capability so we'll see how much faith retailers are able to invest in them.

Beyond the external criminal threat, retailers acknowledge that their next two most common cyber-adversaries are their own employees and their suppliers. Supply chains have come under scrutiny in recent years because in many cases their increased connectivity causes doors to be left open for hackers to exploit. Employee error also frequently plays a role in this situation and retailers are aware of their responsibility to train staff in order to avoid problems.

The evidence from this event was that retailers are taking enterprise security as seriously as possible. "To quote the day's chairman John MacBrayne QPM, 'you shouldn't learn to dance on the night of the party'."

My response is that retailers are using the ISO 27001 standard to revisit policies and ensure they reflect current information and cyber security requirements. However, they also need to look beyond ISO 27001 at issues such as Critical Security Control, and NIST 800-53 to enhance their security programmes from a technical perspective.

Aon's Global Risk Consulting specialists focus on improving risk understanding before a client transacts with the commercial insurance market. Retailers need to ask themselves 'how am I creating financial and operational resilience and how is this understood within my business?'

High profile cyber breach cases allow us to identify how a lack of resilience and preparedness may have led to impactful situations.

Protecting shareholder value should be the arbiter of how successful a business resilience strategy is and retailers may begin by considering a trio of likely scenarios following a hack or data breach.

There will be costs and lost productivity; regulatory fines of up to 4% of global revenue and finally law suits and personal liability. Share price performance can recover over time but the challenge is to focus and improve your risk understanding so you can position your business to smooth out volatility and recover.

> "THERE WILL BE COSTS AND LOST PRODUCTIVITY; REGULATORY FINES OF UP TO 4% OF GLOBAL REVENUE AND FINALLY LAW SUITS AND PERSONAL LIABILITY."

Cyber risk is often described as a "distributed problem" in which departmental 'ownership' tends to create silos which risk and insurance managers may struggle to break through.

We see pockets of great activity; General Counsel and legal teams take care of the regulatory and contractual position; Systems and IT specialists support the networks and HR takes responsibility for employee risk. Risk and insurance managers shouldn't be afraid to push through and make sure the whole enterprise addresses this problem from an enterprise view.

But money is probably the greatest barrier to co-operation in incident response. "Resource will need to be redirected and every function will need to articulate the financial merit of their plan; what is the return on investment? One department may have to accept that they cannot safeguard their own budget without the application of insurance. For example, The IT security function isn't likely to want to self-insure a potentially catastrophic cyber event. So ask yourselves; 'how do we safeguard those budgets so we are not putting capital investment aside for crisis management.'

How do you deploy more sophisticated ways of financing this risk?

For further information please contact:

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> "THE EVIDENCE FROM THIS EVENT WAS THAT RETAILERS ARE TAKING ENTERPRISE SECURITY AS SERIOUSLY AS POSSIBLE. TO QUOTE THE DAY'S CHAIRMAN JOHN MACBRAYNE QPM, 'YOU SHOULDN'T LEARN TO DANCE ON THE NIGHT OF THE PARTY'."

PRACTICAL CONSIDERATIONS FOR PRODUCT RECALL

LAURA CLARE
ASSOCIATE
SQUIRE PATTON BOGGS

ROB ELVIN
PARTNER
SQUIRE PATTON BOGGS

CONSUMER PRODUCT RECALLS HAVE BEEN ON A DECREASING TREND SINCE 2013, HOWEVER WORLDWIDE CONSUMERISM AND OFFSHORE MANUFACTURING HAVE CREATED FAR MORE COMPLEX PRACTICAL CONSIDERATIONS FOR IF, HOW AND WHEN A PRODUCT RECALL SHOULD BE CARRIED OUT.

So what are the key issues a retailer should consider when it becomes aware of, or is suspicious that, a product may be unsafe?

1. MY PRODUCT IS UNSAFE, WHAT DO I DO?

A product recall can have many negative effects on a business, including loss of productivity and reputational damage. Retailers should undertake a risk assessment before carrying out a recall, considering the following issues:

a. How many of the products have been sold?
b. How many complaints have been received?
c. Do the complaints demonstrate a safety risk to consumers?
d. Do the complaints relate to vulnerable groups (e.g. children, the elderly, pets)?
e. Traceability - where does the issue originate? Is the issue limited to a batch? Can liability be passed on to another party in the supply chain?
f. Is the retailer facing many issues with multiple products?
g. What does the law require?
h. What will the commercial implications be?
    I. Will a recall (or failure to recall) damage the company's reputation?
    II. What will the cost of the recall be?
    III. Will there be an impact upon other current / future products?

Upon completion of the risk assessment, the retailer (or supplier) should consider potential courses of action, which could include: changing the design of a product; withdrawing products from the distribution chain; providing information and warnings about the correct use of products to consumers; modifying products at the customer's premises or elsewhere; recalling products from consumers for replacement or refund; or in fact, doing nothing.

When a recall is carried out, a RAPEX notification is required, and this may deter some businesses who want to avoid the broader promulgation of the issue on the European platform. However it should be warned, that failing to take steps which are later deemed necessary, may not be seen favourably by a regulator, or by a court in any subsequent prosecution, and may constitute a breach of the law.

Underestimating a product recall is a common mistake and retailers will be faced with competing interests in some cases - company interests v legal compliance. A business should seek advice on limiting its risk in both senses.

2. WHAT ABOUT THE REGULATOR?

If the General Product Safety Regulations 2005 apply, there is an obligation under Regulation 9, to notify an enforcement authority 'forthwith' and in writing where a business knows it has placed or supplied an unsafe product on the market. Failing to comply with Regulation 9 GPSR is a criminal offence.

Once notified of a potential product safety issue, it is likely that the enforcement authority will expect that the company has a plan in place to deal with the issue and take immediate action. Retailers should ensure that they are prepared to deal with the immediate aftermath of notifying a regulator. It should be borne in mind however, that although the company may wish to be transparent and co-operative with a regulator, any information provided to them during a recall, may affect any overarching decision whether to prosecute the company or not.

3. I HAVE DECIDED TO RECALL, WHAT SHOULD I DO?

If a recall is to be carried out, a business should put in place a 'recall plan' which covers at a minimum:

a. When the recall should be carried out;
b. What should be covered by the recall;
c. If and how the recall should be advertised;
d. How the products will be collected;
e. Whether existing and returned product should be quarantined, and how; and
f. How customers should be compensated.

Recalls that affect vulnerable groups may require extra consideration, in 2016 for example, toys were the top category for consumer product recall. Heightened transparency, may be necessary where children are affected, and retailers should consider providing more information than they might during any other recall.

In line with this, adequate resources should be made available to concerned parents, including quick access to information and helplines where necessary. A company may consider employing an external service to provide additional support if large volumes of telephone calls are expected.

The type of recourse being offered may also need to go above that of a typical recall. While it may be adequate under law to compensate the value of a product, it may be appropriate to offer further compensation in some circumstances.

4. ADVERTISING AND COMMUNICATIONS

A specific communications plan may also form part of the recall plan. Agreeing a press statement in advance of a recall, and how the statement is to be communicated will be paramount. Is there a need for key stakeholders to receive information first?
A seniority of communications may need to be agreed, and certainly all Senior Managers and Directors should be informed and ready to answer external questions.

> "AVOIDING RESPONSIBILITY IN PRESS STATEMENTS IS NOT ATTRACTIVE, AND WILL CERTAINLY AFFECT BRAND PERCEPTION."

Avoiding responsibility in press statements is not attractive, and will certainly affect brand perception. Companies may consider using the recall as an opportunity to redefine its image as a responsible retailer, and external media expertise could turn a recall into a brand positive.

Until businesses have understood their driving and competing interests, taken advice where appropriate, and put in place an adequate recall and communications plan, caution should be had before issuing a recall.

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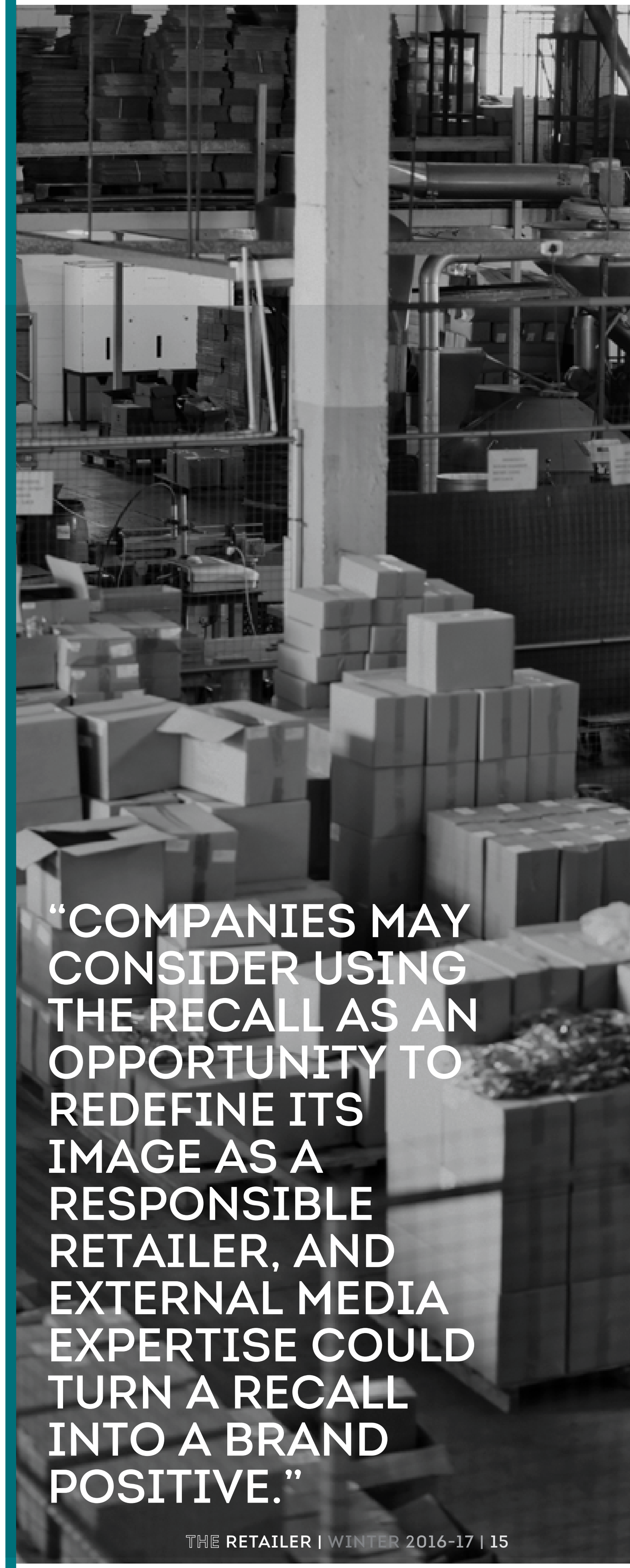
SQUIRE
PATTON BOGGS



> "COMPANIES MAY CONSIDER USING THE RECALL AS AN OPPORTUNITY TO REDEFINE ITS IMAGE AS A RESPONSIBLE RETAILER, AND EXTERNAL MEDIA EXPERTISE COULD TURN A RECALL INTO A BRAND POSITIVE."

CONSUMER PRODUCT RECALLS

DAVID BOLTON
RETAIL PRODUCTS POLICY ADVISOR
BRITISH RETAIL CONSORTIUM

RECALL RECOMMENDATIONS ARE DUE THIS YEAR; WHAT SURPRISES MIGHT THEY HAVE IN STORE FOR RETAILERS?

Nobody wants a product recall, they are costly and they are time consuming. No-one can guarantee zero defects in their products, and the reality is that at some point in the life of a retailer they are likely to be engaged with a serious safety product issue that results in the need for a recall. But what does an effective product recall look like? Various pieces of legislation lay down the minimum requirements for a product recall. However, the feedback from industry, regulators, consumers, and the media suggests the legislation is difficult to negotiate. It is complex and it is confusing.

On behalf of BIS it was announced that commencing March 2015 Lynn Faulds Wood, a leading consumer campaigner and TV personality, would lead an independent review of recalls. Importantly she was asked to focus on the effectiveness of consumer product recalls in the UK and to consider the key issues that directly impact this. Thus she set about exploring the existing mechanisms in place that assist the Trading Standards authorities, business and consumers, to review their strengths and weaknesses, and develop a list of recommendations.
At the time BRC provided a written response to the review as well as participating in a focus group with Lynn.

Lynn's report along with the BIS response would eventually see the light of day in February 2016 and would contain seven main recommendations. The BIS response was to form a Recall Review Steering Group consisting of a cross-section of stakeholders which I co-chaired. This included trade organisations, manufacturer representatives, legal, academia and Trading Standards.

Following a serious fire in Hammersmith, London, started by a faulty Whirlpool tumble dryer, BEIS Consumer Minister Margot James reviewed the remit of this group and chose to focus on electrical products, in particular white goods.

> THE GOVERNMENT WANTS TO TAKE ACTION TO ADDRESS CONSUMER CONCERNS OVER PRODUCT SAFETY AND TO IDENTIFY AND ADDRESS THE KEY ISSUES NEEDED TO PROTECT CONSUMERS.

The Government wants to take action to address consumer concerns over product safety and to identify and address the key issues needed to protect consumers.

The best practice from this work is expected to transfer across to other retail product recalls. This now expanded government-backed group is led by Neil Gibbins, a former Deputy Chief Fire Officer and CEO of the Institution of Fire Engineers. The Group has been encouraged to pay particular attention to:

- identifying the causes of fire in white goods and the action needed to reduce them
- registration of electrical products at the point of sale
- the development of a code of practice for product recalls including the peer review of risk assessments
- improving the information available to consumers and the role of consumer education
- ways to improve the capture and use of data relating to faulty electrical goods
- the value of marking white goods to preserve their identification through fire

THE CHALLENGES

Once the need for a recall is required, what's the best way of communicating to consumers to stop using the product and to get them to return it? On-line – when's the last time you looked to see if any of your products had been recalled, where would you look? Newspapers; which one do you put your recall in? All UK papers, and who will read it? Press recalls have a very poor success rate and that was before the decline in newspaper sales. What about in-store posters? Who notices them, who reads them, how often would you be going back to that store?

What about social media? Some members have started using this route with some success, others are concerned that it may send out a negative impact of the company. Products sold online will provide direct access to consumers' email details and store cards are useful in capturing purchases against customer details.

These were all subject of discussion when members met with BEIS for them to understand what good practice might look like.

Motor recalls are highly successful, because every car will have a registered owner which can be contacted directly in the case of an incident. This is not possible with other products, and one of the reasons why BEIS is looking at the requirement the retailers to register customer details for electrical purchases. They are also looking for retail to educate customers to register their appliance.

GOING FORWARD

There is a need for resource at a national level to support capacity and co-ordination of product safety recalls and enforcement.

The Government should prioritise developing primary authority partnerships with manufacturers of white goods. Currently only four of the major manufacturers of white goods have primary authority partnerships in place.

The Government should undertake research into consumer behaviour to understand how best to encourage consumers to engage with a corrective action when a problem is identified

The work of the group will build on the strong progress already made by the Recall Review Steering Group. Margot James requested the Chair of the group to provide a set of urgent recommendations to improve the safety of white goods by the end of end of 2016 which he has done, with a view to a Code of practice in the Autumn.

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> PRODUCT RECALL: A PRODUCT RECALL IS A REQUEST TO RETURN A PRODUCT AFTER THE DISCOVERY OF SAFETY ISSUES OR PRODUCT DEFECTS THAT MIGHT PLACE THE CONSUMER AT RISK

REVIEWING THE GROCERIES CODE – A TIMELY REMINDER OF ITS ROLE

ANDREW OPIE
DIRECTOR OF FOOD AND SUSTAINABILITY
BRITISH RETAIL CONSORTIUM

AS THERE ARE CALLS TO EXTEND THE ROLE AND POWERS OF THE GROCERIES SUPPLY CODE OF PRACTICE (GSCOP) AND THE GROCERIES CODE ADJUDICATOR (GCA) ANDREW OPIE EXPLAINS WHY WE NEED TO EXAMINE THE REASON THEY WERE IMPLEMENTED BEFORE ASSUMING THEY ARE THE SOLUTION.

The current consultation on extending the remit of the GCA could have significant implications for the whole of the supply chain. There are suggestions that more food companies should be brought within the scope of the Code alongside the 10 largest food retailers and that the reach of the Code should be extended to all suppliers in the chain, not just those that directly supply retailers. To understand why these suggestions are not only misguided but would be difficult to implement, we need to return to the original Competition Commission report of its investigation into the grocery market published in 2008.

The 2008 report was solely concerned with how the UK grocery market operates on behalf of consumers. It is this perspective, the consumer, that is usually lost in any discussion about the Code or Adjudicator. In fact, the interventions in the supply chain, the Code and Adjudicator were recommended to protect consumer interests. This was based on speculation that without regulating contractual arrangements suppliers' margins would be reduced and their ability to invest in future innovation, thereby reducing consume choice.

The current consultation considers the effectiveness of the interventions. From the correct perspective, that of the consumer, all the evidence shows they have. Not only have consumers benefited from increased value, our own figures show food prices have been falling for 3 years, there hasn't been the impact on supplier innovation the Competition Commission was concerned about. In fact, investment in R&D has been steady and notably higher than when the Code and Adjudicator were introduced.

> A SIMPLE COMPARISON OF PRODUCTS IN A SUPERMARKET TODAY COMPARED TO 2008 CONFIRMS THE CONTINUING IMPORTANCE OF INNOVATION TO MEET CONSUMER DEMAND. NOT ONLY DO WE HAVE NEW CULINARY EXPERIENCES BUT THERE HAS BEEN HUGE INVESTMENT IN SOURCING AND REFORMULATION TO REDUCE FAT, SALT AND SUGAR.

A simple comparison of products in a supermarket today compared to 2008 confirms the continuing importance of innovation to meet consumer demand. Not only do we have new culinary experiences but there has been huge investment in sourcing and reformulation to reduce fat, salt and sugar.

There are no doubts these have been difficult times for suppliers due to wider problems in the global market but these are outside the scope of the Code and Adjudicator which were specifically designed as a remedy for the UK grocery supply chain.

It is difficult to see how it could be extended to address problems in the wider supply chain. The Competition Commission considered the position of indirect suppliers such as farmers in their investigation but concluded the most appropriate point to intervene was with intermediaries such as dairies and processors who are direct suppliers. Attempting to widen the Code's scope to include more buyers of food alongside retailers is unlikely to be effective and difficult to implement considering the complexity of the global supply chain.

> ATTEMPTING TO WIDEN THE CODE'S SCOPE TO INCLUDE MORE BUYERS OF FOOD ALONGSIDE RETAILERS IS UNLIKELY TO BE EFFECTIVE AND DIFFICULT TO IMPLEMENT CONSIDERING THE COMPLEXITY OF THE GLOBAL SUPPLY CHAIN.

Some proponents of extending the remit of the Adjudicator down the chain have suggested this could be done by requiring it to oversee voluntary codes which exist between farmers and processors. However, this would be a very different role and responsibility for the Adjudicator and raises the question of who would pay for the additional resources required. Currently the Adjudicator is paid for by a levy of the 10 GSCOP retailers and that is calculated on the basis of work relating to those retailers. It is inconceivable to see how retailers could be charged for issues outside their own supply chains, which means the Government would need to find additional funds.

The other problem in attempting to extend the scope of the Code and remit of the Adjudicator is process. The Competition and Markets Authority are responsible for the Groceries Order, which established the framework of the Code, not the Government. Any change to the Code would need further intervention from the CMA.

Before they embarked on any further investigation they would go back to the principles the Competition Commission applied; is it in consumers' interest, is this of strategic importance and is there likely to be an effective remedy? It is difficult, based on the current market and the complexity of problems facing suppliers, to see how a further investigation could be justified.

Whilst it is understandable those who are concerned about small producers see the current consultation as an opportunity it is not solution they believe it is. Even if the Code were able to help these producers, which is highly debatable, there is no justification for change based on the consumer test and it is impossible to see how changes might be implemented.
The Government could decide to help suppliers directly but it would need to devise the framework to do so, resource it and ensure it didn't negatively impact on the market.

In my view good commercial sense not further regulation will continue to drive improvements in supply chain relationships as retailers and manufacturers appreciate that is the only sustainable way to guarantee long term, quality products.

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> "THE GOVERNMENT COULD DECIDE TO HELP SUPPLIERS DIRECTLY BUT IT WOULD NEED TO DEVISE THE FRAMEWORK TO DO SO, RESOURCE IT AND ENSURE IT DIDN'T NEGATIVELY IMPACT ON THE MARKET."

THE DIGITAL POTENTIAL: ARE RETAILERS BEING LEFT BEHIND BY CONSUMERS?

TIM MASON
CEO
EAGLE EYE

DIGITAL TRANSFORMATION HAS BEEN DISRUPTING GLOBAL BUSINESSES FOR MORE THAN A DECADE, YET MUCH OF THE RETAIL INDUSTRY IS STUCK IN THE PAST WITH PAPER VOUCHERS AND PLASTIC LOYALTY CARDS. GOING DIGITAL OFFERS RETAILERS THE POSSIBILITY TO UNDERSTAND THEIR CUSTOMERS AS INDIVIDUALS AND CHANGE THE FACE OF MARKETING.

Digital has changed everything in consumers' lives, from maps to messaging to music. In all walks of life, the smartphone enriches the experience, enhancing the way we do things, yet when it comes to in-store shopping, consumers are disconnected.
While digital has opened up the whole new opportunity of ecommerce, many retailers continue to operate in siloes, with the store's physical and digital counterparts working as enemies rather than allies.

THE DIGITAL REVOLUTION

The sharp increase in 'near me' searching, up 146% from last year[1], demonstrates how people are using their smartphones as a gateway into the physical world. We can search for almost any product and easily get to our preferred or most convenient store front.

However, once we get inside the store, we must either hunt for the product ourselves or ask a customer advisor to direct us to it. The physical and digital elements do not operate seamlessly and once the retailer takes over from Google, they fall short.
The digital miracle stops at the shop front door.

A DIGITAL DELAY – WHY HAVE RETAILERS FALLEN BEHIND?

There hasn't yet been a turning point, or any moment that has seen retailers make a significant step towards digital transformation in the in-store retail industry. While companies such as Google, Amazon and Facebook continue to invest more and more in their R&D budget for 2017, retailers are holding back, continuing to sit on the side-lines.

We are yet to see one large retailer moving consciously and strategically into the digital domain.This leadership role may be constrained because the usual suspects, Tesco in grocery, Boots in beauty and Next in fashion, have highly successful legacy analogue schemes. In the mid-90s, Tesco Clubcard carried out a major investment as part of putting the individual customer at the centre of the organisation. The business' successful use of big data encouraged other major retailers to reflect on their own strategies and challenge a new way of working.

These great retailers have been working in the world of big data for over a decade; others need to use the digital opportunity to catch up. I am not going to make the case for putting customer data at the heart of retail decision-making here other than to say that we manage what we measure and if we only measure the performance of products and branches we only ever understand the what and get nowhere towards understanding the why.
If you don't have a customer data based approach to running your business, digital is the catalyst to start. If you do, what else does digital add?

> "INCREASINGLY, DIGITAL IS THE WAY CONSUMERS LIKE TO RECEIVE INFORMATION; THEY LOOK AT THEIR PHONES OVER 200 TIMES A DAY[2]"

Increasingly, digital is the way consumers like to receive information; they look at their phones over 200 times a day[2].
It provides a slick digital connection to the business which allows real-time analysis and communication during the shopping trip.
Digital enables much higher levels of personalisation, affordably.
It generates more data which enables companies to employ new age workers currently working in online businesses in their bricks-and-mortar business. It creates the opportunity for brands to build a direct connection with consumers, driving traffic in to stores for fulfilment. Finally, it initiates a move to performance marketing and generates data to manage the increasingly important digital marketing channels.

USING DIGITAL TO DRIVE SUCCESS

It's no secret that the rise of smartphones has made consumers more likely to head online. However, this doesn't mean retailers with a successful ecommerce side should focus on this and this alone. The customer sees the store as one entity which is available to them across multiple channels. So should the retailer.

By applying digital, retailers can unite these opposing parts, close the loop and gain access to the omnichannel (most valuable) consumer.

CREATING AN ACTION PLAN

It is impossible to predict how the digital world will evolve.
As human beings and as managers we tend to believe that the 'now' is forever which is never true. Therefore, what is important is we understand the key elements of a digital connection and build flexible capability that can evolve as the world changes:

1. WiFi enable stores with a sympathetic customer interface that automatically informs the CRM system when a customer is in-store.
2. Build a big data warehouse which can aggregate consumer data from many different sources e.g. WiFi, online, purchases, promotions, customer care, beacons, social etc.
3. Install a real-time promotion/content picking capability
4. Digitise all relevant library content on products, usage, CSR programmes and any other elements which contribute to your rounded brand image.
5. Install a delivery mechanism which enables content from points 3 and 4 above to be requested by and served to customers before, during and after the shopping trip.

KEEPING UP WITH THE CONSUMER

For me, there is one simple KPI to judge this effort: customers getting their phones out of their pockets and having them firmly in their hands when shopping in the digitally connected store. Why? Because then it is enhancing the shopping trip and augmenting the store in the same way as it does in all other parts of their lives.

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eagle eye

> "DIGITAL ENABLES MUCH HIGHER LEVELS OF PERSONALISATION... IT CREATES THE OPPORTUNITY FOR BRANDS TO BUILD A DIRECT CONNECTION WITH CONSUMERS, DRIVING TRAFFIC IN TO STORES FOR FULFILMENT."

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[1] Yext - How to Build Your Mobile-Centric Search Strategy

[2] Weve – A day in the life of a phoneless millennial

HARNESSING THE POWER OF SOCIAL MEDIA

ALAN LINTER
INSIGHT, ANALYTICS AND IMPROVEMENT DIRECTORR
CAPITA CUSTOMER MANAGEMENT

HOW ANALYSIS OF SOCIAL MEDIA INTERACTION WITH CUSTOMERS IS HELPING RETAILERS STAY AHEAD OF THEIR COMPETITORS THROUGH IMPROVED CUSTOMER EXPERIENCE.

The rise of social media over the past decade has been nothing short of phenomenal.

Today there are around 2.3bn active social media users*. Facebook alone has 1.71bn users, with 500,000 new users joining the network each day. Twitter has 1.3bn accounts, and while only 320m of those are active, 500m tweets are sent each day.

The growth of these platforms has inevitably had an impact on the retail industry. Consumer demands to interact with retailers on their own terms has led to many brands offering customer service support through social media channels - an estimated 91% of retail brands now use two or more of these channels. According to a recent report by Dimension Data, 35% of all contact centre interactions are already digital and if growth continues at the current rate it will overtake telephone contact by 2017.

> “AS THE AMOUNT OF CUSTOMER INTERACTION VIA SOCIAL CHANNELS SUCH AS TWITTER INCREASES, RETAILERS ARE FACED WITH THE CHALLENGE OF ESTABLISHING WHAT GOOD LOOKS LIKE.”

As the amount of customer interaction via social channels such as Twitter increases, retailers are faced with the challenge of establishing what good looks like. How quickly should they be responding to customers? How long should the conversations last? What is the most suitable channel on which to continue the conversation?

Social media analysis is helping retailers answer those questions and stay ahead of their competitors.

Take the example of the recent ‘Cyber Monday’. Over the past decade the Monday after the American Thanksgiving holiday and following Black Friday has established itself as a day on which many retailers offer great online deals. According to Fundivo, $2.9bn was spent online in the US on Cyber Monday 2015.

To gauge how UK retailers responded to customer questions on Cyber Monday 2016, Capita carried out an analysis of eight online retailers’ social media activity. This analysis demonstrates when customers and brands were tweeting, the topics being covered during retailer/customer interactions, and which brands were able to improve sentiment during a customer conversation.

So what did we find? Tweet volumes from customers to retailers first begin to ramp up from 8am, with consistent levels of messages from 10am through to 8pm, when volumes start to decline. Response time are crucial – 33% of consumers would recommend a brand that offered a quick but ineffective response, nearly double the number (17%) who’d recommend a brand that offered a slow but effective solution**. Three of the brands we analysed managed to reply to 70% of customer contact within 20 minutes, with two of those brand achieving an impressive 90% in 20 minutes.

Analysis of the length of Twitter conversations highlights both the efficiency with which brands respond to customers and the complexity of topics being discussed. Across the board customers sent less than two messages per conversation, indicating that either brands were able to provide a succinct and acceptable response first time or that conversations are being shifted to more private channels.

Retailers need to be careful about moving social conversations on to private channels. While it can be necessary depending on the topic being discussed, there is a danger that you can be seen to be hiding something. One popular online retailer which we analysed attempted to move almost 70% of all their conversations to a more private channel, with direct messaging being the preferred channel. Indeed direct messaging was the preferred private channel for all the retailers in our study, outpacing both emails and phone calls. Just one of the brands we analysed promoted the use of Webchat during their social conversations.

So what are customers talking about in their social media conversations? Our analysis enables retailers to see what they are talking about across the customer journey, from the initial order, to payment, delivery and returns. More than a quarter (26%) of the tweets we analysed on Cyber Monday concerned customer service, 14% related to an order and 6% concerned a bill or payment. Perhaps surprisingly, just 1% of the tweets related to a customer complaint.

The analysis of what people are talking about also enables retailers to determine whether the sentiment of the customer improves or gets worse during the course of a social media conversation. Encouragingly the majority of the retailers that we analysed were able to improve sentiment during their Twitter conversations, with just one retailer seeing a decrease in sentiment. This shows that appropriate and timely social media interaction can really help to boost a retailer’s customer service.

In summary, it is hardly surprising that analysis of retailers’ social media interaction with customers is growing in popularity. The continued growth in social media use means that retailers have little choice but to be on board. The data that we analyse is all publicly available and is a great way to gather intelligence on the competition, to understand the issues they are facing and to benchmark performance.

To find out what your customers talk about and how your brand compares to the competition, email us at:

// connectwithus@capita.co.uk or visit
// www.capitacustomermanagement.co.uk/socialmediainsight

CAPITA

*Statistics from Brandwatch.
**Report by NM Incite

> “…IT IS HARDLY SURPRISING THAT ANALYSIS OF RETAILERS’ SOCIAL MEDIA INTERACTION WITH CUSTOMERS IS GROWING IN POPULARITY. THE CONTINUED GROWTH IN SOCIAL MEDIA USE MEANS THAT RETAILERS HAVE LITTLE CHOICE BUT TO BE ON BOARD.”

THE CHANGING FACE OF LUXURY RETAIL IN AN ONLINE WORLD

MARK THORNTON
MARKETING DIRECTOR
MAGINUS

WITH LUXURY RETAILERS INCREASING THEIR ONLINE PRESENCE MARK THORNTON LOOKS AT WHAT IS DRIVING DIGITAL ADOPTION IN THE SECTOR.

Historically, Luxury retailers have been hesitant to take the leap online fearing that it will conflict with the traditional luxury experience – lacking intimacy, personal touches and exclusivity. As a result, their digital stores have consistently failed to deliver some of the key functionality that is demanded by the digitally savvy consumer.

However, there are signs that the luxury retail sector is changing its attitudes to online commerce and are starting to invest more heavily in omni-channel retail. Maginus recently released its second annual 'Changing Face of Luxury Retail' report, examining the omni-channel offerings of the UK's top 100 luxury retailers, analysing trends across the sector. Using our extensive expertise of delivering high quality eCommerce offerings, we examined the websites of 100 luxury retail brands including Abercrombie and Fitch, Bettys, Calvin Klein, French Connection and Net-a-Porter to see if they delivered some of the key components of a successful eCommerce offering.

SHIFTING TO DIGITAL

In the report we looked at a range of key indicators for a retailer being engaged and committed to selling online. These include offers and discounts on the homepage, content driven commerce, click and collect, gift wrapping and a customer contact centre. With the report now in its second year we were able to draw key comparisons and measure progress in the sector and what we saw was encouraging as we found evidence that the sector is starting to change attitudes and invest more heavily in omni-channel retail.

The signs of this changing attitude towards online retailing included a 33% increase to 68% in the number of brands now offering discounts and promotions on the homepage and an increase from 59% to 69% of luxury retailers now delivering content driven commerce such as video and blogs.

Furthermore, 62% now offer luxury gift wrapping on the site, an increase of 15%; 74% have a customer contact centre – up 49% from 2015, with 25% now also having a 'Live Chat' facility.

The rise in the number of luxury retailers offering discounts and promotions on the homepage was particularly interesting as it would seem to indicate that the sector is shifting its focus away from using 'high cost' as a symbol of exclusivity and investing time and resource in ways that convey luxury to digital customers. But what is driving this changing attitude and rapidly increasing digital adoption in the luxury retail sector?

UNDERSTANDING THE SHIFT TO ONLINE

One of the key drivers is the emergence of the High-Earners-Not-Yet-Rich (HENRY) consumer demographic. This demographic is predominantly male, aged 25-34 with a household income of £100,000 to £250,000, desires exclusive goods and demonstrate many of the behaviours of other millennials including relying heavily on digital devices. Tellingly, a key difference between this new group of consumers and the traditional luxury shopper is that they often make sacrifices in overall household consumption to fund their luxury purchases and as a result, are more careful about where and what they spend their money on.

The rise of this new consumer has impacted the luxury sector in three key ways. First, according to McKinsey, this new group of consumers were one of the key reasons that digital touchpoints influenced 44% of all luxury purchases last year. The knock on effect of this is that the opportunity online as a platform offers has increased – so much so that industry analyst BNP Paribas estimates that luxury retailers successfully moving online could generate an additional £43billion in transactions between now and 2020. Finally, according to the Robin Report, while the HENRY consumer group may spend half as much on luxury purchases when compared to the ultra-affluent, there are three times the number of HENRY households than ultra-wealthy creating a sizeable new market.

> "...WHILE THE HENRY CONSUMER GROUP MAY SPEND HALF AS MUCH ON LUXURY PURCHASES WHEN COMPARED TO THE ULTRA-AFFLUENT, THERE ARE THREE TIMES THE NUMBER OF HENRY HOUSEHOLDS THAN ULTRA-WEALTHY CREATING A SIZEABLE NEW MARKET."

When taking these three key factors into consideration, it becomes clear to see why an increasing number of luxury retailers are not only starting to offer discounts on their homepage, but are also seeing eCommerce as a key component of their business.

THE £43 BILLION INCENTIVE

With this fresh generation of luxury consumers not only expecting an option to shop online but demanding it of luxury retailers,' omni-channel is simply something that the sector cannot continue to neglect. Ultimately the HENRY consumer will bring about a new era in luxury retail, introducing a clientele that expects a seamless digital experience both in-store and online.

> "ULTIMATELY THE HENRY CONSUMER WILL BRING ABOUT A NEW ERA IN LUXURY RETAIL, INTRODUCING A CLIENTELE THAT EXPECTS A SEAMLESS DIGITAL EXPERIENCE BOTH IN-STORE AND ONLINE. "

To be in a position to cater to this new consumer, retailers in the luxury sector will have to develop comprehensive digital transformation strategies and invest in the latest technologies.

To achieve this they should consider finding an experienced partner to ensure that their digital shops offer a consistent, user friendly shopping experience to their digitally savvy customers and ensure that all touch points are properly integrated. Additionally this should include personalisation, an increasingly critical feature of any eCommerce offering that could be of particular importance to luxury brands as they look to convey an exclusive feel in the online world.

For a sector which until relatively recently was resistant to digital transformation this will be no mean feat. They will not only have to deliver an eCommerce offering but also optimise it for a range of additional platforms, including mobile and social. In short, it will have to excel at omni-channel retailing if it is to capitalise on the £43billion opportunity this emerging and growing new consumer group has to offer.

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> "...THEY WILL NOT ONLY HAVE TO DELIVER AN ECOMMERCE OFFERING BUT ALSO OPTIMISE IT FOR A RANGE OF ADDITIONAL PLATFORMS, INCLUDING MOBILE AND SOCIAL. IN SHORT, IT WILL HAVE TO EXCEL AT OMNI-CHANNEL RETAILING IF IT IS TO CAPITALISE ON THE £43BILLION OPPORTUNITY THIS EMERGING AND GROWING NEW CONSUMER GROUP HAS TO OFFER."

INNOVATION IN RETAIL MUST BE INFORMED

MATT HAW
PARTNER
RSM

FOR YEARS RETAILERS HAVE ENJOYED BIG SUCCESSES BY PUTTING CREATIVITY AT THE HEART OF THEIR STRATEGIES.

As the fortunes of entrepreneurial-led companies like Virgin and Apple have shown, identifying a gap in a market and then focusing on an innovative USP helps consumers identify with a brand and grow to love it, whether it's cutting-edge products or great in-store experiences.

But in today's fast-changing retail landscape an entrepreneur-led approach can carry bigger risks. Recent political and economic events have created a volatile operating landscape and fresh challenges for British retailers. Currency fluctuations in the wake of Brexit have created unknowns around long-term supply costs. Question marks over future trade tariffs and the free movement of skilled workers only add to uncertainty.

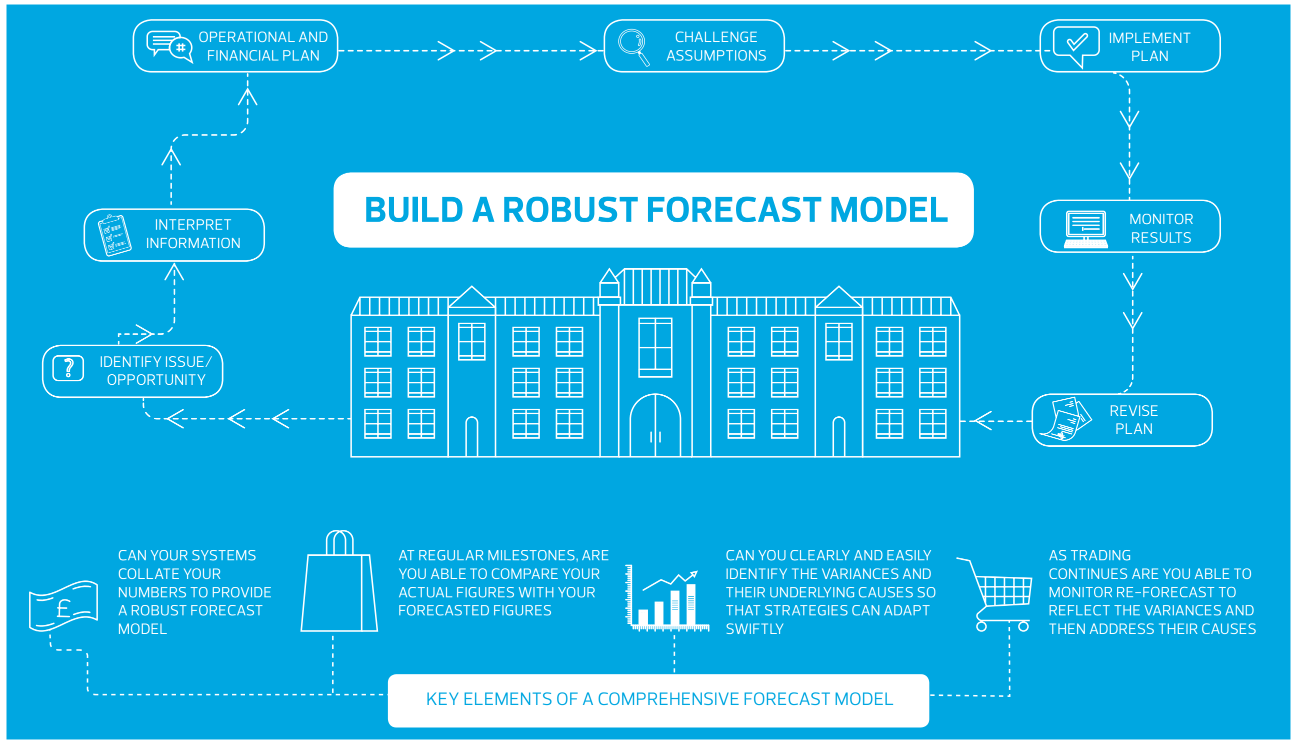
In this new era, retailers must continue to innovate, create and push forward. But it is now more important than ever that the creative and entrepreneurial minds within a business have a robust framework for each key decision. Good governance is key. Without this, even long-standing stalwarts of the high street could find themselves financially exposed by macro-economic trends and fickle consumer spending habits.
Good governance and entrepreneurship should not be seen as binary options. Ultimately, the goal should be to embed good governance while also retaining the business' overall vision, direction and identity. When this is done successfully, management is able to understand the consequences of each creative decision, ensuring informed innovation.

Although the operating environment has become more challenging, retailers that embed entrepreneurship alongside good governance will reap the biggest rewards in the year ahead. They will be able make confident decisions about their future path, successfully side-step challenges and take calculated risks that will set them apart from their competitors.

There are immediate steps that retailers can take to ensure good governance across their organisation. Below we set out the key elements that will help businesses remain competitive in a volatile operating environment. This process should be applied to all elements of a company's operations, from design to purchasing to implementation of online sales channels.

RESPONSIVE STRATEGIC PLANNING

Management must remain alert to market conditions. In response to these short and long-term market fluctuations, retailers should develop a considered operational and financial plan.



CAN YOUR SYSTEMS COLLATE YOUR NUMBERS TO PROVIDE A ROBUST FORECAST MODEL

AT REGULAR MILESTONES, ARE YOU ABLE TO COMPARE YOUR ACTUAL FIGURES WITH YOUR FORECASTED FIGURES

CAN YOU CLEARLY AND EASILY IDENTIFY THE VARIANCES AND THEIR UNDERLYING CAUSES SO THAT STRATEGIES CAN ADAPT SWIFTLY

AS TRADING CONTINUES ARE YOU ABLE TO MONITOR RE-FORECAST TO REFLECT THE VARIANCES AND THEN ADDRESS THEIR CAUSES

KEY ELEMENTS OF A COMPREHENSIVE FORECAST MODEL

Management should regularly appraise how the business is performing against this plan, taking steps to adapt where necessary to stay one step ahead.

The operational and financial plan should also take account of macro-economic trends. As negotiations over the UK's future relationship with Europe continue, businesses must ensure their forecasts and plans take account of new uncertainties.

ROBUST MANAGEMENT INFORMATION

Good decision making depends on the ability of management to obtain meaningful financial and operational information, and interpret the key messages contained within it. This ensures board members have the tools to assess performance and then reach fully informed, objective judgements that will allow the business to move forward with confidence.

The commercial expertise of non-executive directors and financial directors should also be drawn on to ensure entrepreneurs within the business have a robust strategy for each key decision. This ensures the financial impact of each choice is always considered, such as whether working capital is sufficient to fund existing trading operations or expansion plans. All voices should be heard and plans adapted in response.

REMAINING FOCUSED

The ability to stand up to a challenging entrepreneur can often be the difference between long-term sustained growth and a high-flying shooting star that burns in spectacular fashion when it hits the atmosphere. Those with a financial overview are just as important in making key business decisions as the creatives.

Taking risks is necessary in any successful evolving business, but being able to monitor progress against expectations ensures any exposure is minimised. Particularly important is having experienced heads and financial acumen and rigour allow plans to adapt in order to ensure that long term goals are not missed due to short term fluctuations.

Growth remains a key driver of any business, but growth must be sustainable and profitable. Unfocused expansion without proper strategic direction can often result in a retail offering that consumers will not buy into it.

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> “THE ABILITY TO STAND UP TO A CHALLENGING ENTREPRENEUR CAN OFTEN BE THE DIFFERENCE BETWEEN LONGTERM SUSTAINED GROWTH AND A HIGH-FLYING SHOOTING STAR THAT BURNS IN SPECTACULAR FASHION WHEN IT HITS THE ATMOSPHERE.”

OPINION: BETTER WORKFORCE MANAGEMENT COULD SAVE RETAILERS BILLIONS BY 2020

NEIL PICKERING
INDUSTRY AND INSIGHTS MANAGER
KRONOS

THANKS TO PARTNERSHIPS WITH LEADING ORGANISATIONS IN THE RETAIL SECTOR, ALONGSIDE YEARS OF WORK WITH BLUE-CHIP CLIENTS, KRONOS HAS GAINED REAL INSIGHT AND UNDERSTANDING OF THE CHALLENGES RETAILERS FACE IN TODAY'S MARKET. WE FIRMLY BELIEVE THAT WORKFORCE TECHNOLOGY CAN MAKE AN ESSENTIAL DIFFERENCE IN THIS RAPIDLY EVOLVING INDUSTRY BY HELPING RETAILERS DEPLOY SALES TEAMS OF ALL KINDS, RESPOND TO CHANGES IN LEGISLATION AND ENGAGE MORE EFFECTIVELY WITH BOTH EMPLOYEES AND CUSTOMERS.

A GLIMPSE INTO THE FUTURE

2020 is just three years away, but by the time it arrives retailers will be facing a whole new set of challenges. One is the increasing National Living Wage (NLW), which by 2020 is estimated will have cost retailers an additional £3.26bn per year in extra pay, national insurance and pensions by 2020, according to the Centre for Retail Research. This is a startling amount of money indeed.

Yet here's an even more startling one: A recent study by Coleman Parkes Research, commissioned by Kronos, showed that UK businesses waste 18 times that much -- **£60 billion each year** in total -- through needless admin and time-wasting tasks that have nothing to do with employees' core jobs. That's why we titled the report The £60 Question.

> "FOR RETAILERS, THE QUESTION IS NOT HOW TO TIGHTEN THE BELT ONCE AGAIN; THAT BELT HAS ALREADY BEEN STRETCHED TO THE BREAKING POINT."

For retailers, the question is not how to tighten the belt once again; that belt has already been stretched to the breaking point. The question is how to use advances in technology to reclaim that $3.26 billion and much more by tapping into the lost $60 billion. And it starts, as so many things do, with keeping employees happy, engaged and productive.

HOW TO TRIM ADMIN TIME

Everyone talks about customer service these days, but of course retail is the original customer-service industry. Every minute that your workers are serving customers is a vital one.

Yet respondents to the Coleman Parkes survey said their employees waste as much as 3.2 hours per week on tasks unrelated to their core job function, with 2.6 of those spent on manual administrative tasks which could be automated.

If you think that reclaiming those lost hours would help retail employees focus more on customers, you're right. Survey respondents said that if they could get that wasted time back, they could focus on more important tasks (61%), do more thinking/planning (56%), and work less overtime (50%).

More work time without hiring more sales associates? Trim overtime and temporary worker hours without trimming customer service time? That seems like a pretty good start.

MANAGE WORKFORCE VISIBILITY

70% of respondents in our report said that the lack of the right technology and systems in their company was a key cause of those undue added workloads.

Again, this turns out to be particularly relevant to retail. Aligning accurately work schedules with the ever-changing customer demand, differences in associate qualifications and expertise, managing holidays and sickness absence and all the rest are a challenge that's ready-made for technology to solve. The right workforce management solutions can put the right people, in the right place at the right time - every time – ensuring you meet the demands of your customers, align with associate preferences and maximise sales and profitability.

That kind of technology also gives retailers better workforce visibility and cuts complexity. It helps management be more flexible and react quickly to changing workforce conditions. In short, it helps a retail business evolve.

ONE STEP BEYOND THE BASICS

Better teamwork starts with better technology. Indeed, the two need to go hand in hand to create happier employees.

Employee engagement has a significant impact on any business's bottom line, as the Coleman Parkes report shows. But don't jump to the conclusion that higher salaries are the best way to create higher engagement. Money is actually one of the least likely factors to retain talent in the long term – it rated only 9th of 11 issues among all respondents.

What could be more important to employees than money, you ask? Better communication with management (rated #A) and increased empowerment (#B) were both more likely to drive the engagement and loyalty organisations are looking for. In other words, good old-fashioned job satisfaction is still the essential ingredient. And nobody ever got job satisfaction out of wasting an hour in the back room on paperwork.

1000 DAYS

2020 is just about 1000 days away. Individually, they'll be days of restocking shelves, opening the front doors, and saying hello to another morning. But taken together, they'll be an opportunity to change how we all control costs, retain our best employees and serve customers even better.

The way to deliver real growth and success is to free up managers and employees from the unneeded pressures in their working lives and allow them to do what they desperately want to: serve your customers and create value for your company.

If you'd like to read the full report, please visit The £60 Question.

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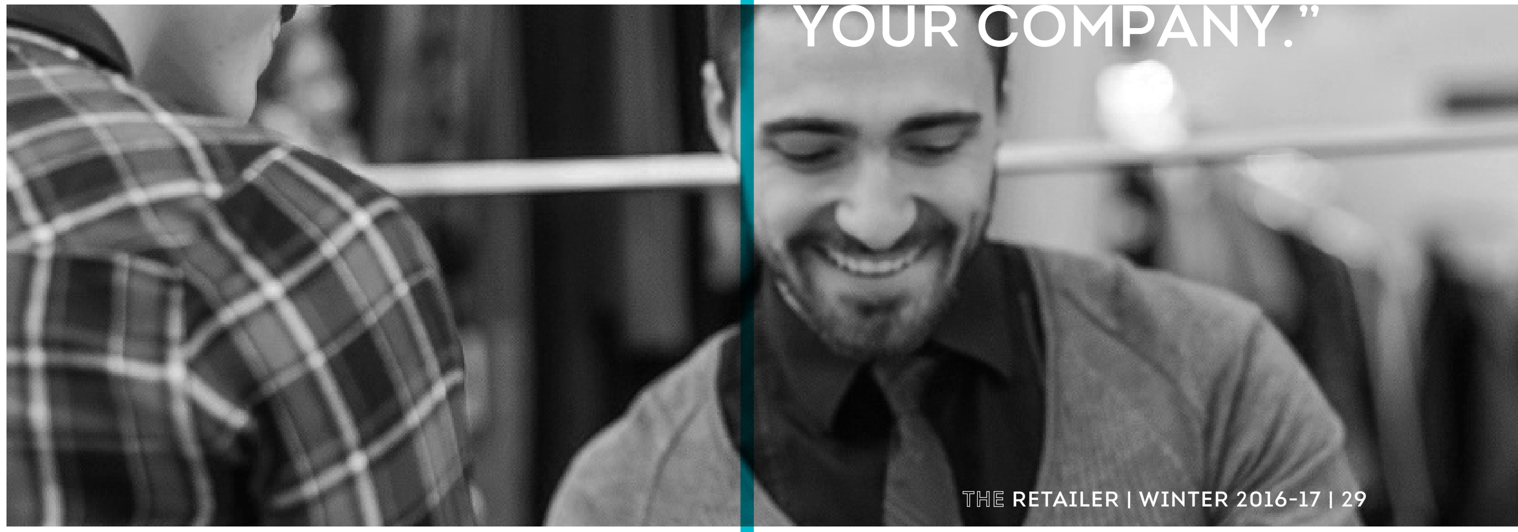
> "THE WAY TO DELIVER REAL GROWTH AND SUCCESS IS TO FREE UP MANAGERS AND EMPLOYEES FROM THE UNNEEDED PRESSURES IN THEIR WORKING LIVES AND ALLOW THEM TO DO WHAT THEY DESPERATELY WANT TO: SERVE YOUR CUSTOMERS AND CREATE VALUE FOR YOUR COMPANY."



THE 2016 DIET. WHERE DID ALL MY POUNDS GO?

ALAN ENGLEDOW
HEAD OF RETAIL AND WHOLESALE, LONDON SME
NATWEST

WITH RISING INFLATION AND A WEAKER CURRENCY WHAT CAN BRITISH RETAILERS DO TO PREPARE FOR 2017.

There has been much talk since the EU referendum result about exchange rates. Or notably, the fall of sterling against key currencies such as the US dollar and the euro. Prior to the vote in June, £1 was worth somewhere in the region of $1.45. Since that time, it has been valued as low as $1.25. Similarly, with the euro, the pound was hovering around €1.30 prior to polling day, and has fallen to lows of €1.10 since.

Not even in the heights of the financial crash were pundits, industry analysts, economists and businesspeople so exercised about the value of the pound on currency markets. This is surprising, given the perilous nature of the 2007/08 crash. But there is, of course, valid reason for a debate about the effects of the nation's exchange rates on inflation in 2016 and 2017. Unlike in the financial crisis, where nations arguably competed to devalue their currencies, sterling has fallen relative to other currencies because the UK is the country most affected by Brexit – to some this is a good thing, while others are more cautious.

What this means for retailers, however, is uncertain. One analysis you may encounter in the common press is that weak sterling is "good for exporters and bad for importers". While this is undoubtedly true, it doesn't quite capture the real-world position businesses find themselves in: very few companies only export and equally few only import. Many businesses do both, and their imports are often turned into exports. So there needs to be a balance in the debate about how the price increases of more expensive imports is offset by the increased demand from overseas to export.

Yet the value of sterling and its effect on business is only one side of the coin. For retailers, especially SMEs, inflation is proving something of a problem – even to those who first thought that it wouldn't affect them. As the cost of imports goes up, retailers face the choice of passing on the costs to customers (and potentially losing revenue) or absorbing the cost and losing on profit. Neither is a desirable situation and the very public spat between Tesco and the manufacturers of Marmite over proposed price in the summer illustrates the tensions faced by businesses throughout the supply chain when it comes to costs.

While larger companies have mostly been able to hedge for currency movements – essentially locking in exchange rates and eliminating the near-term problem of whether to increase prices – many SMEs inevitably don't enjoy this luxury.

In 2017, there seems to be a perfect storm facing companies that did not take longer term hedges on their currency positions in the first half of 2016. The prospect of the Living Wage, high business rates, oil price hikes and – of course – the increase costs of imports, are all set to weigh heavy on retailers' profitability. Combined, these would be bad enough, but there is also the ongoing uncertainty over the exchange rate itself – we could easily see sterling strengthen in 2017, meaning that companies may have 'expensive' stock on their hands owing to a previously weak sterling and the prospect of more fragile consumer confidence.

> "HOW YOU ASSESS THE VALUE OF STERLING IN 2017 MAY HAVE A SIGNIFICANT EFFECT ON YOUR BUSINESS STRATEGY, AND THE ASSUMPTIONS YOU MAKE NOW MAY HAVE A BIG IMPACT ON YOUR BOTTOM LINE IN 18 MONTHS' TIME."

How you assess the value of sterling in 2017 may have a significant effect on your business strategy, and the assumptions you make now may have a big impact on your bottom line in 18 months' time. How soon inflation will start to affect businesses, and the value of sterling against the dollar in 2017, are known unknowns that may vary from one source to the next.

What's a company to do? As the Tesco/Marmite negotiation illustrates, it's never easy to pass on prices to your customers, but some retailers may face no other choice. Luckily, given the all-pervasive nature of inflation, it's highly likely that your competitors are in the same boat. The first step I would recommend is finding out whether raising your prices will affect the number of units you sell, or the revenue you make. Economists refer to this as 'elasticity', which, in a nutshell captures how much a product is demanded by consumers – the more it is desired, the more likely consumers are to accept price increases. If they can easily switch to cheaper products or alternative brands, it is considered less desirable and you raise prices at greater peril.

If your business is in the position of having to increase prices, examine which method you choose to do this. There are many pricing strategies out there, including cost-plus, target pricing and psychological pricing. Depending on the nature of your products, how you sell them and the competitiveness of the market you face, there is likely to be a pricing strategy that works better than others.

For instance, keeping prices constant under the cost-plus method – where you add a margin to the costs of making products in order to reach a selling price – would require you to review costs, and how to economise in different areas, including how products are shipped, marketed etc. The exercise may also help you think about sunk costs, such as the cost of office space, computer systems and the businesses you outsource key functions to.

While SME-sized retailers face some uncertainties in 2017, staying optimistic and being alert to the threats may spur businesses to become leaner and smarter. This will help retailers be more efficient and prepare them for emerging opportunities.

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> "WHILE SME-SIZED RETAILERS FACE SOME UNCERTAINTIES IN 2017, STAYING OPTIMISTIC AND BEING ALERT TO THE THREATS MAY SPUR BUSINESSES TO BECOME LEANER AND SMARTER."

MORE NEEDED TO ACHIEVE SUSTAINABLE BUSINESS RATES SYSTEM

JIM HUBBARD
POLICY ADVISER - LOCAL ENGAGEMENT, PROPERTY & PLANNING
BRITISH RETAIL CONSORTIUM

COMMUNITIES AND HIGH STREETS' VITALITY DEPENDENT UPON REFORM.

Last March following the Government's structural review of business rates it committed to implementing more frequent revaluations, permanently removing small independent businesses, introducing CPI-linked indexation beginning 2020 and to standardise and digitalise billing.

These commitments were welcomed by retailers, but they do too little to address the fundamental problem. Business rates are deterring investment and leading to shop closures and job losses and will continue to do so after some of the Government's reforms kick-in in four years' time.

In fact, business rates are the highest commercial property tax anywhere within Europe and the OECD so the modest reforms are not a long-term sustainable solution.

> AS THESE REFORMS SLOWLY COME INTO PLACE BUSINESS RATES WILL CONTINUE TO INCREASE EVERY YEAR DAMAGING OUR HIGH STREETS AND COMMUNITIES.

As these reforms slowly come into place business rates will continue to increase every year damaging our high streets and communities.

Retailers will pay an additional £2 billion over the next three years, compared to the last three years.

In addition, retail is undergoing an overall increase in centrally driven costs from policies such as the National Living Wage, the Apprenticeship Levy and the effects of Brexit.

Cost pressures are increasing at a time when growth in consumer expenditure is subdued. This is occurring whilst the digital transformation reshapes the industry leading to fewer shops and fewer jobs. And the reality is that the effects will be uneven across the country with vulnerable communities likely to see the greatest negative impact.

Retailers are regularly reviewing their leases and in doing so will be considering their fixed costs including business rates to review profitability of individual stores and decide if they can afford to keep them open. Further measures to reform business rates are essential to fix an unsustainable system that continues to discourage investment.

The BRC has recommended Government:

- Revise the business tax road map in light of the EU referendum
- Switch to CPI indexation in April 2017 followed by a flat rate in 2020
- Ensure a fair appeals system taking account of each property's Rateable Value (RV)
- Progress its commitment to implement more frequent revaluations

BUSINESS TAX ROAD MAP

In the Government road map published before the EU referendum, Government committed to reform some aspects of business rates which is welcomed, however, more is needed for businesses to effectively plan and invest. The Government aimed to provide a plan to encourage future investment, but the reality is the road map is not adequate due to the changing circumstances we find ourselves. An important component of an updated road map should be a timetable to gradually reduce the disproportionate burden of business rates and fully meet the previous Government's stated ambition to radically reform the tax, going beyond tinkering around the edges.

CPI INDEXATION NOW, FLAT RATE BEGINNING 2020

Government has committed to CPI-linked indexation in 2020 (opposed to RPI), but given current challenges should be brought forward to April 2017 to prevent loss of investment. In 2020 there should then be a flat rate multiplier linked to RV which already accounts for inflation and other economic conditions. Rates would then rise and fall in relation to property values based on more frequent revaluations.

FAIR APPEALS SYSTEM

Given the £7.3 billion retail burden of business rates it is absolutely essential each ratepayer pay its fair share – no more, no less. The Government's new plans to allow the Valuation Tribunal for England to only order a change in valuation if it is "outside the bounds of reasonable professional judgement" is unfair and counterproductive, and would create additional uncertainty. Instead, a collaborative working relationship between the Valuation Office Agency (VOA) and ratepayers where information and evidence can be shared and appeals avoided should be sought.

MORE FREQUENT REVALUATIONS

More frequent revaluations would reduce the number of unneeded appeals, and be fairer and more closely aligned to economic circumstances. We cannot wait another five years following the 2017 revaluation to assess properties and we are committed to work with Government to enable more frequent revaluations every three years, which we suggest should commence from 2020. To assist the method in which the VOA operates should be strengthened through the better use of technology, and early engagement and exchange of information with ratepayers.

The BRC approached the Government's review of business rates seeking fairness, international competitiveness, flexibility to respond to economic cycles, incentives to invest and simplicity. There has been modest progress, but these principles have not been met and so we will continue encouraging Government to do more because the consequences of not doing so will have a detrimental impact on retailers and consequently our communities and high streets.

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> "THERE HAS BEEN MODEST PROGRESS, BUT THESE PRINCIPLES HAVE NOT BEEN MET AND SO WE WILL CONTINUE ENCOURAGING GOVERNMENT TO DO MORE BECAUSE THE CONSEQUENCES OF NOT DOING SO WILL HAVE A DETRIMENTAL IMPACT ON RETAILERS AND CONSEQUENTLY OUR COMMUNITIES AND HIGH STREETS."

CROSS BORDER TRADE BOOMS FOR BUTTERCRANE POST BREXIT

PETER MURRAY
MANAGER
BUTTERCRANE SHOPPING CENTRE

IN THE WAKE OF BREXIT, ONE SHOPPING CENTRE IN NEWRY, NORTHERN IRELAND, IS REAPING FINANCIAL BENEFITS FROM THE FALL OUT.

Centrally located, in the heart of Newry, Northern Ireland, Buttercrane Shopping Centre is in the unique position of benefiting from the Brexit vote.

Buttercrane Shopping Centre first opened in 1988 to serve the bustling market town of Newry and its hinterlands, parts of which straddle the Irish Republic.

Comprising some 280,000 sq. ft. of retail space and anchored by M&S, Dunnes Stores and Primark (with 50+ mall units) the centre planned to market itself to attract shoppers from a catchment area of approx 20 miles.

There has always been one other important extenuating circumstance which has had an impact on business in Newry, and other border towns in Northern Ireland: since 1979, when the European ERM broke the one-for-one link that existed between sterling and the Irish pound, and an exchange rate was introduced.

The subsequent currency fluctuations overs the years, coupled with other external factors such as the Peace Process and 48 hour trade restriction etc has seen business flow across borders in the intervening years.

Located just six miles from the only remaining U.K. land border with the EU (post Brexit) and some 60 miles north of Dublin, business in this part of Northern Ireland has once again soared over recent months due to the drop in Sterling/Euro exchange rates.

Newry, strategically located on Ireland's North South Economic corridor, has long been famous for being a retail hub and a 'good shopping town'. Newry and its Irish neighbour Dundalk, have become adept at dealing with the ebb and flow of cross border trade dependent on Sterling and Euro exchange rates with most businesses accepting it as a way of trading life.

As a consequence of the strong Euro value being felt post Brexit, Buttercrane Shopping Centre has witnessed a very significant increase in cross border trade from the Irish Republic in recent months.

Whilst always benefiting from some level of cross border trade – in Buttercrane's case a figure of around 10-12% of total business was the norm in 2015 and for the first six months of 2016 – Brexit brings a whole new ball game with it.

Following the result of the EU Referendum in June 16, cross border trade has suddenly increased by some 100%.

Across the summer months the high level of Euro trade remained the case but grew with the further drop in value of sterling in the autumn, and particularly in November when some 33% of all business transacted in Buttercrane Centre was from customers travelling cross border.

Whilst some of Buttercrane's trading brands may be feeling the pinch nationally, Buttercrane tenants are in a unique position of seeing Euro trade double and footfall increased by some 12%, bucking national trends.

In the run up to Christmas tens of thousands of shoppers travelled journey times of 3 + hours (from as far away as the South and West Coasts of Ireland) to benefit from the fantastic savings - up to 40% quoted in many cases.

With shoppers travelling such distances to stock up for Christmas, the City's hospitality and leisure sectors also benefited significantly as Newry - which has two designated areas of outstanding natural beauty on its doorstep - became an even more appealing weekend break destination.

> "NEWRY'S RELATIONSHIP WITH BREXIT IS A UNIQUE STORY AND NATIONAL AND INTERNATIONAL MEDIA HAVE FOCUSSED ON IT IN RECENT MONTHS."

Buttercrane Shopping Centre enjoyed the busiest Christmas trading period since 2009 with a strong Year on Year increase of 12% in footfall in Q4, 2016.

Indeed Northern Ireland traded very positively generally with footfall in the region showing an average increase of 6% in Q4, compared to the drops in footfall in UK of -2.5% and in Ireland of -1.75%.

For Buttercrane, the 'Brexit effect' certainly contributed largely to the story.

The timing was certainly fortuitous. Over the past year the centre's letting agents, Lambert Smith Hampton, have successfully repositioned Buttercrane and enhanced the tenant mix with a series of new lettings which have included VILA, The Works, Vero Moda, Intersport, Jack&Jones, name it, Yours, Warren James, Order Sixty Six Toys, T2 Bistro and Subway.

Further to the Centre's strong performance, in a recent Lampert Smith Hampton report, the letting agents have said they are close to securing at least two further lettings in the first quarter of 2017.

Over 95,000 shoppers regularly visit the centre each week, peaking in December to over 155,000 in a single week, representing an annual year on year rise of 5% on 2015.

The increase in footfall translated into excellent sales figures for many of Buttercrane's stores. Health and beauty sectors sales rose 18% on last year, jewellery was up 22% and fashion up by 16% on 2015. One retailer, who appealed particularly to visitors from the Irish Republic, has reported a massive increase of 83% compared to last year.

The tremendous trade achieved by Buttercrane Centre stores saw many topping their groups nationally in terms of sales performance and Year on Year increases.

With ongoing Brexit uncertainty, it is envisaged this level of increased business from ROI will continue for some time. Whilst overall Northern Ireland, and border locations in particular, voted to remain within the EU, Newry and Buttercrane will enjoy the benefits of the Leave vote in the short term whilst bracing ourselves for whatever may lie ahead.

The last thing Newry and other border towns and cities need is any form of hard border with the Irish Republic which would restrict trade and commerce in either direction.

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Buttercrane
The place to be in Newry

> "THE LAST THING NEWRY AND OTHER BORDER TOWNS AND CITIES NEED IS ANY FORM OF HARD BORDER WITH THE IRISH REPUBLIC WHICH WOULD RESTRICT TRADE AND COMMERCE IN EITHER DIRECTION."

COMPETITION LAW - PLAY BY THE RULES

JON SCALLY
ASSOCIATE
HILL DICKINSON

ON 1 DECEMBER 2016, THE UK COMPETITION AND MARKETS AUTHORITY ("CMA"), AN INDEPENDENT NON-MINISTERIAL DEPARTMENT WHICH WORKS TO PROMOTE COMPETITION FOR THE BENEFIT OF CONSUMERS, ANNOUNCED THAT DANIEL ASTON, MANAGING DIRECTOR OF TROD LTD ("TROD"), HAD PROVIDED A DISQUALIFICATION UNDERTAKING NOT TO ACT AS A DIRECTOR OF ANY UK COMPANY FOR 5 YEARS HAVING INFRINGED COMPETITION LAW IN RESPECT OF THE PRICING OF WEBSITE SALES. THIS WAS THE FIRST DISQUALIFICATION OF A DIRECTOR SECURED BY THE CMA FOR BREACH OF COMPETITION LAW.

In light of the CMA's renewed resolve to pursue competition law infringement, this developing area is one in which retailers need to be fully aware of.

THE LAW

The Enterprise Act 2002 amended the Company Directors Disqualification Act 1986 to give the CMA power to apply to court for an order to disqualify a director from holding office or performing certain roles for a specified period of time following breach of competition law. The CMA has the power to seek a competition disqualification order ("CDO") for a maximum of 15 years disqualification.

The Act also allows the CMA to accept a disqualification undertaking from a director, in lieu of commencing proceedings. This may result in a shorter period of disqualification.

It is a criminal offence to contravene a CDO or undertaking punishable by imprisonment and/or a fine.

Guidance sets out that the CMA will follow a five-step process when deciding whether to apply for a CDO:

1. Consider whether there has been a breach of competition law;
2. Consider the nature of the breach and whether a financial penalty has been imposed;
3. Consider whether the company benefited from leniency;
4. Consider the extent of the director's responsibility for the breach of competition law (a director does not need to have actual knowledge of the infringing conduct, provided that the director ought to have been aware of the conduct due to his/her position and responsibilities); and
5. Consider any aggravating and mitigating factors.

Despite the fact that the powers have existed since 2003, the CMA has not utilised such powers until now.

TROD LTD ("TROD")

Trod is an online supplier of posters and frames which feature sports/entertainment celebrities such as Justin Bieber and One Direction. Mr Aston had been the Managing Director of Trod since its incorporation in 2005.

In August 2016, the CMA issued a finding that Trod had infringed competition law by agreeing with a competitor online retailer, GB Eye Ltd ("GBE"), that they would not undercut each other's prices for posters and frames sold on Amazon. The agreement was implemented by both parties through automated repricing software which was configured to give effect to the agreement. The CMA fined Trod almost £165,000.

The CMA did not fine GBE or disqualify its directors on the basis that GBE had reported the illegal activity to the CMA and fully cooperated with the investigation.

In November 2016, the CMA determined that it would bring proceedings for a CDO against Mr Aston. The CMA considered his conduct, both as the Managing Director of Trod for the duration of the agreement and his personal contribution to the breach, made him unfit to be a director.

> "IF MR ASTON HAD NOT GIVEN THE UNDERTAKING, HE COULD HAVE FACED A LONGER PERIOD OF DISQUALIFICATION."

Mr Aston has subsequently cooperated with the CMA and provided a disqualification undertaking that, for a period of 5 years, he will not, without the leave of the court, "be a director of a company, act as a receiver of a company's property or in any way, whether directly or indirectly, be concerned or take part in the promotion, formation or management of a company; or act as an insolvency practitioner." If Mr Aston had not given the undertaking, he could have faced a longer period of disqualification.

POINTS TO NOTE

The CMA appears determined to implement a targeted strategy towards directors of companies involved in competition law breaches in all sectors including retail. Competition law applies to small businesses as well as large ones: the two online sellers in this case were relatively small, each with an annual turnover of under £16 million.

Key points to bear in mind:

1. Company directors and employees need to understand the importance of complying with competition law, and recognise that infringement could lead to serious legal consequences for the company and for them as individuals;
2. Company directors need to understand the principles of competition law (the CMA has a range of short and simple guides to help) to be able to recognise risks, and to realise when to make further enquiries or seek legal advice;
3. Company directors ought to check that their companies have effective competition law compliance programmes and processes in place, and that appropriate training and detection systems, such as competition law audits and whistle-blower hotlines, are available;
4. Avoid agreements with competitors not to undercut each other, or the release of prices at which products will be sold;
5. Don't discuss pricing intentions and strategies with competitors; and
6. Software providers should not help their clients use software to facilitate illegal price-fixing agreements.

If you are affected by any of the issues raised in this article, or require any further advice or assistance, please contact:

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> "COMPANY DIRECTORS AND EMPLOYEES NEED TO UNDERSTAND THE IMPORTANCE OF COMPLYING WITH COMPETITION LAW, AND RECOGNISE THAT INFRINGEMENT COULD LEAD TO SERIOUS LEGAL CONSEQUENCES FOR THE COMPANY AND FOR THEM AS INDIVIDUALS..."

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