

July 2018

Retail re-imagined – BAUnusual

Taking the best of bricks-and-mortar retail, combining it with the benefits of e-commerce and sprinkling in some cutting-edge tech for good measure – retail is undergoing a significant global transformation. With personalised consumer-centric experiences fundamentally changing the way consumers shop, high street retail stores are not dying, but they are definitely changing.

Russell McVeagh Special Counsel [Liz Blythe](#) examines the opportunities and risks associated with the eye-wateringly quick pace of change in the sector.

Omnichannel shopping - the changing face of the high street

Bricks-and-mortar shopping is actually on the increase, with 40 per cent of shoppers reportedly visiting the high street weekly in 2015, rising to 44 per cent in 2018¹. For many, visiting the shops is more entertainment than errand and this fact has not escaped online-first retailers, a number of whom are now expanding into bricks-and-mortar.

The new high street does not distinguish between online and offline customers or operate in a real-world vacuum. Instead, physical stores are highly integrated with digital platforms, creating an omnichannel retail experience designed to encapsulate the best of both online and offline worlds.

One of the best examples is Alibaba's first ever physical retail store, combining both real and virtual worlds in a unique entertainment-led and personalised shopping experience. In-store shopping is highly integrated with smartphone apps and digital platforms, providing digital access to detailed product information and reviews on products at the scan of an in-store QR code.

Other shops, like AmazonGo, attempt to replicate the benefits of the online queue-less world, using "just walk out" technology, and the new Nordstrom Local concept stores offer no inventory at all, but rather a curated selection of goods and all the human service elements that their integrated digital platforms are unable to replicate online.

Technology-driven customer experience driving higher customer expectations

Connected devices and intelligent software not only enable a seamless in-store experience, they also allow retailers to engage throughout the customer journey. Adapting service to shopper preferences and customising both online and in-store interactions prior to, during and after a purchase presents enormous marketing value for the retailer and significant potential added-value for the customer.

Connected consumers also present opportunities to re-shape the retail experience in other ways. For example, augmented reality-enabled smartphone apps, like Ikea Place, which let customers see what products would look like in their own home and L'Oreal's "magic mirror" which lets potential customers "try on" makeup in-store by simply looking into the screen. Blockchain-powered platforms are also enabling consumers to make more informed purchase decisions based on the ethical sourcing and traceability of goods.

¹ PwC 2018 Global Consumer Insights Survey <https://www.pwc.com/gx/en/retail-consumer/assets/consumer-habits-global-consumer-insights-survey.pdf>

Whichever retail channel is used, customers continue to demand frictionless checkout experiences and fast order fulfilment. In fact, fast delivery is no longer optional if you want to remain competitive – it's a must².

One area where we are seeing enormous investment is in drone technology, which holds the potential to offer faster, more flexible and less expensive delivery options. Amazon's Prime Air concept delivery system aims to do just this by autonomously delivering packages within 30 minutes of order. Globally, we also continue to see investment in robotics, automated warehousing, AI demand planning and consolidated online and offline inventory systems.

Payment is yet another aspect of retail undergoing change. Mobile wallet payment options such as Alipay and Tenpay are used by as many as 86% of Chinese consumers (compared to only 24% of shoppers on average globally)³. One of the key advantages is the vertically integrated nature of the platform with the supplier's other non-financial retail services and those of its alliance partnerships, which offers seamless integration benefits to customers shopping within the vertical.

Harness the benefits, but be wary of the risks

While this highly-connected and personalised brand of retail presents significant opportunity, it also gives rise to potential risks, particularly in the areas of security, data protection, ethical use of emerging technology and consumer trust.

Social media is a good example of how loss of consumer trust in technology could create fundamental change in the retail space, seemingly overnight. Many organisations invested heavily in social media as a retail channel in past years. However, the recent Facebook/Cambridge Analytica data governance scandal and associated fall-out led to consumer distrust and illustrated how quickly reduced user engagement on affected platforms can result.

Three key issues for omnichannel retail:

1. DATA PROTECTION

An enormous amount of personal information is required in order to deliver the depth of personalisation that omnichannel retail boasts. However, in collecting and processing so much personal data, organisations will need to be careful to comply with applicable privacy and data protection legislation.

Digital retail platforms enable retailers to sell into almost any jurisdiction globally. However, selling overseas may impact your legal obligations from a data protection perspective. For example, [Europe's new General Data Protection Regulation \(GDPR\)](#) is much more prescriptive than New Zealand privacy law and imposes notably stricter requirements in a number of areas. Potential penalties for breaching this legislation are significant. However, most notably, the GDPR regulates the use of personal information regarding EU individuals regardless of where the retailer is established, meaning that Kiwi retailers selling into Europe will be caught.

² 2018 Walker Sands Future of Retail Report <https://www.walkersands.com/futureofretail>

³ PwC report "China's next retail disruption: end-to-end value chain disruption" <https://www.pwccn.com/en/retail-and-consumer/publications/global-consumer-insights-survey-2018-china-report.pdf>

2. SECURITY VULNERABILITIES

Cybersecurity risks are growing, both in their prevalence and in their disruptive potential, with attacks against businesses having almost doubled in five years⁴. The highly digitalised nature of omnichannel retail makes this risk especially relevant, particularly when combined with the vast amounts of personal information involved in the provision of the service.

For example, omnichannel retailers typically rely heavily on cloud service platforms and connected devices such as smartphones. Accelerated use of cloud services and Internet of Things (IoT) devices by any business exponentially increases the number of potential cybersecurity targets that the business must secure.

Gartner recently predicted that use of IoT devices is expected to expand from an estimated 8.4 billion devices in 2017 to a projected 20.4 billion in 2020⁵. The widely-reported risks of poorly secured IoT devices present significant potential security risks for all organisations, but the risk is particularly acute for omnichannel retailers with a heavy reliance on this technology.

3. ETHICAL USE OF ARTIFICIAL INTELLIGENCE (AI) AND OTHER EMERGING TECHNOLOGIES

The use of AI-powered digital advisors and analytical marketing tools to target and influence consumers has sparked widespread international debate regarding the ethical use of AI and also called into question issues around the attribution of liability when things go wrong.

However, inevitable regulatory lag has meant that legal frameworks are yet to catch up with concerns regarding emerging technology.

The UK Government's recent response to the House of Lords Select Committee's report on the future of AI in the UK⁶ emphasised the importance of AI as an area of "seismic global change" and the associated risks regarding attribution of legal liability, transparency, data protection and bias. However, as has been the case in most jurisdictions to date, the Government advocated regulatory action but was generally not able to provide specific solutions.

As and when legislation does begin to regulate some of these emerging issues, it could itself be very disruptive to omnichannel retailers who have invested early on in tools that subsequently require re-engineering to meet future legal and regulatory requirements. Care should therefore be taken to ensure that implementations of any such technologies are undertaken ethically and with due consideration as to the associated impact the implementation may have on individuals.

⁴ The World Economic Forum's Global Risks Report <https://www.weforum.org/reports/the-global-risks-report-2018>

⁵ Gartner statistics <https://www.gartner.com/newsroom/id/3598917>

⁶ The UK Government published its response to the House of Lords Select Committee's report on the future of AI in the United Kingdom on 28 June 2018 <https://www.gov.uk/government/publications/ai-in-the-uk-ready-willing-and-able-government-response-to-the-select-committee-report>

Without a solid digital strategy, there is a real risk that organisations could be left behind. However, there is equally risk in investing too heavily in a single channel or platform or over-investing in new technology that could be subject to a loss of consumer trust if misused, employed in an unethical way or otherwise impacted by future legal and regulatory restrictions. When planning and implementing your digital strategy, ensure that you are mindful of this balance.

If you would like any advice regarding the relevant legal and regulatory considerations applicable to omnichannel retail in your industry, or assistance in getting the right legal protections in place for your business to operate in this way, please do not hesitate to contact us.

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