



# Protecting your brand

**Regulatory and compliance related insights  
for managing reputational risk in retail**

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# How important is your reputation?

Retail businesses are under intense pressure. Revenue growth and profitability remain key challenges against a backdrop of increasing scrutiny from consumers, regulators and shareholders. As consumers place more importance on major macro-economic issues such as plastic pollution, climate change and public health, they also expect retailers to reflect their values and respond to societal challenges. The need for ethical, social and environmental business models that underpin purpose driven companies was further highlighted in **KPMG's UK CEO Outlook Survey**: 71%<sup>1</sup> of top executives reported that they felt personally responsible for ensuring that their company's environmental, social and corporate governance (ESG) policies reflect consumer values. Failure can significantly impact a retailer's brand and financial performance.

The regulatory landscape has also reinforced responsible business conduct with heavy fines for non-compliance. Stricter regulations to protect consumer data and privacy, safeguard employee welfare and ensure accurate and fair business reporting for shareholders have come into effect. It's also clear from upcoming legislation such as E-Privacy, Digital Services Tax and Ethnicity Pay Gap Reporting, that retailers must be transparent about the impact of their business activities across a range of areas.

They must demonstrate that they are taking the right steps to mitigate future adverse effects to protect their reputation and financial health.

At KPMG we recognise that this is a complex challenge for retail executives. It's hard to find the right balance between the commercial and compliance aspects of your company's responsibilities. That's why we continue to update our guide, *Protecting your brand*, now in its fourth edition, to support you in managing reputational and financial risk whilst striving for growth and profitability.

Re-align your purpose with what your customers care about in society, read more on the latest regulatory developments you need to know, and ask yourself the five critical questions to consider to manage regulatory compliance.

We continue to welcome conversations with you on any of these areas to understand your needs and share our insights. We can help you. Please get in touch.



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1. <https://home.kpmg/uk/en/home/campaigns/2019/06/uk-ceo-outlook-2019-agile-or-irrelevant.html>

# Understanding what your customers care about



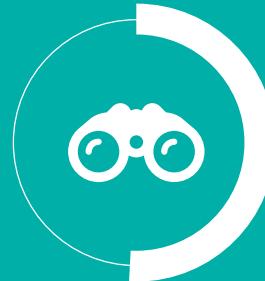
**71%** of CEOs feel responsible for ensuring that their company's environmental, social and governance policies reflect the values of their customers.\*



**35%** of UK businesses state that they are lacking in governance and ethics experts.\*



**45%** of UK CEOs are struggling to link their growth strategy to a wider societal purpose, compared with 47% of global CEOs.\*



**51%** of UK CEOs surveyed in 2019 agreed that they should look beyond purely financial growth to achieve long-term sustainable success, compared with 40% in 2018.\*



Environmental and climate change is now considered a **top 3** threat to growth by UK and global CEOs.\*

\* All figures from KPMG's *UK CEO Outlook Survey 2019* and *Global CEO Outlook Survey 2019*



## Your packaging and plastic pollution

Consumers are now aware of the damaging effects of plastic pollution on land and marine life and they expect retailers to take action. New figures show that retailers have a big part to play in managing plastic pollution, recycling and disposal. Britain's top 10 supermarkets reportedly produce 810,000 tonnes of single-use plastic each year, 1.1 billion single-use bags, 958 million 'bags for life', and 1.2 million plastic bags for fruits and vegetables. This places billions of pieces of plastic into circulation a year which can devastate the natural world<sup>2</sup>.

New laws have also come into effect. Following the 5p charge for plastic carrier bags, which has successfully reduced plastic consumption<sup>3</sup>, new controls will come into effect from April 2020 to limit the availability of plastic straws, drink stirrers and cotton buds<sup>4</sup>. Retailers will need to ensure that they are compliant.



## Your customers and their financial wellbeing

Many retailers offer consumers store credit cards which enable them to access goods they may not have been able to otherwise, for example 'buy now, pay later' options for high-value items. They are also often linked with 'exclusive' rewards such as promotional discounts, which can increase brand loyalty. However, the average consumer credit debt per UK household stands at almost £8,000<sup>5</sup> and the retail industry is coming under scrutiny for irresponsible lending.

Greater attention is being drawn to the high interest rates of store credit cards, the targeting of young people, and the mis-selling of credit cards by untrained personnel without adequate financial expertise. To protect customers, retailers must lend responsibly – only to shoppers who can afford to pay back debts under a sensible payment plan.



## Your products and sustainability

Sustainability has become an important issue for consumers. Many consumers care more about the environmental impact of the products they buy. For example, timber, used in many household items from furniture to greeting cards to hairbrushes can cause devastating effects such as deforestation, loss of biodiversity and natural habitat for animals if sourced illegally. Products that are eco-friendly will have greater appeal among conscious consumers.

The source of food produce has also become a hot topic. Aggressive land conversion for soy and palm oil farming – two ingredients which are found in many products – has been capturing greater attention. Retailers need to focus on their supply chain and identify areas to improve environmental sustainability to reflect consumer values and allow them to make more informed choices.



## Your suppliers and ensuring fair treatment

Consumers also want people to be treated fairly by businesses. Over 75% of people living in rural areas in developing countries earn less than one dollar a day. Fair trade requires retailers to pay sustainable prices to farmers and workers in less economically developed countries (LEDCs), ensuring better prices, improved working conditions, higher living standards, and local sustainability. 'Fair trade' labelled products will have greater resonance among consumers who want to help tackle these issues.

Closer to home, there is a shift towards supporting local industry, whether it's food items grown regionally, or non-food items 'Made in Britain'. This can result in environmental benefits where there is less time in transit from farm or factory to product shelves, for example. It can also help bolster economic activity in smaller communities. Retailers can benefit from including locally sourced or manufactured goods in their product offerings.



## Your local community and its vitality

The link between corporate value and economic and societal value is strengthening. Retailers need to consider the value that their activities could create for the economy and society as a whole starting with their local communities. This may include offering consumers regional produce to support local suppliers, creating a safer environment for employees, or sponsoring community initiatives to improve education or healthcare.

Embedding corporate social responsibility throughout your organisation and 'doing good' can enhance community relations. It also generates interest from broader stakeholders such as the government and regulatory bodies where funding, policy changes and other forms of support are under consideration.

# Understanding the regulatory environment and the cost of non-compliance

It's no secret that regulation in retail has been growing in number and rigour with the cost of non-compliance shooting up. Placing compliance at the heart of a retail business can create a strategic advantage by helping retailers manage risk in their supply chain, protect customers and safeguard employees more effectively.



**87%** of UK CEOs are actively transforming their leadership team to strengthen business resilience.\*



Only **17%** of UK CEOs say that their tax risk deadlines are met on schedule.\*



**66%** of CEOs agree that their company is well prepared in the event of a cyber-attack, compared to 38% surveyed last year.\*

\* All figures from KPMG's *UK CEO Outlook Survey 2019* and *Global CEO Outlook Survey 2019*

To ensure compliance, protect your brand and manage financial risk effectively, every executive in a retail business has an important role to fill.

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		Chief Executive Officer	Chief Financial Officer	Chief Technology/Information Officer	Chief Marketing Officer	Human Resources Director	Company Secretary/ Head of Legal & General Counsel	Head of Tax	Head of Commercial Sales/Trading/Buying/ Procurement	Head of Internal Audit and Risk Compliance
Protecting your customers	General Data Protection Regulation	●		●	●	●	●		●	●
	E-Privacy Regulation	●		●	●	●	●		●	●
	Minimum Unit Pricing	●							●	●
	Soft Drinks Industry Levy	●							●	●
Protecting your people	Right to Work	●		●		●	●			●
	National Minimum Wage	●	●			●		●		●
	Gender & Ethnicity Pay Gap Reporting	●			●	●				●
	Corporate Governance Statement	●			●	●	●	●	●	●
	Apprenticeship Levy	●	●			●				●
	Defined Contribution Schemes	●	●			●		●		●
Managing risk in your supply chain	UK Modern Slavery Act	●				●	●		●	●
	UK Bribery Act	●	●				●		●	●
	Groceries Supply Code of Practice	●					●		●	●
	Money Laundering Regulations 2017	●	●				●		●	●
Paying your taxes	Corporate Criminal Offence	●	●				●	●		●
	Making Tax Digital	●	●					●		●
	IR35	●	●			●		●		●
	Digital Services Tax	●	●	●				●		●
	OECD Transfer Pricing Guidelines	●	●					●		●
	Senior Accounting Officer	●	●			●		●		●
Producing better business reporting	Payment Practices and Performance Reporting	●	●				●		●	●
	Non-Financial Reporting Directive	●	●				●			●
	IFRS16	●	●					●		●
	Tax Strategy Publication	●	●			●		●		●

# 1. Protecting your customers



Regulation or guideline	General Data Protection Regulation	E-Privacy Regulation	Minimum Unit Pricing	Soft Drinks Industry Levy
<b>Impact on your business</b>	General Data Protection Regulation (GDPR) was designed to increase privacy for consumers and give them more control over how businesses in the EU use their personal information. Non-compliance could lead to fines up to the higher of 4% of global turnover or €20 million (roughly £17,500,000); and individuals having rights to sue for non-material and material damage.	Building on the existing GDPR regime, a draft E-Privacy Regulation is continuing through the EU legislative process, with intended updates on cookies, analytics, direct marketing and other technological developments. Once in effect, retailers could face the same financial penalties as with non-compliance with GDPR, the higher of 4% of global turnover or €20 million (roughly £17,500,000).	Minimum Unit Pricing (MUP) legislation came into effect in Scotland to combat rising levels of alcohol misuse by consumers. All products containing alcohol must have a minimum price of 50p per unit. Any retailer with a licence to sell alcohol in Scotland is affected except wholesalers who only conduct trade-to-trade business.	Companies that produce, package or import soft drinks into the UK with added sugar need to register for the Soft Drinks Industry Levy, informally known as the 'Sugar Tax'. The revenue is invested to help retailers decrease rather than add to rising levels of obesity in the UK.
<b>Key challenges to ensure compliance</b>	<ul style="list-style-type: none"><li>– Retailers may have a limited understanding of their level of exposure to data breaches.</li><li>– They may also have low visibility of how consumer data is managed in their organisation, and lack the right operational processes, systems and tools to manage it appropriately.</li><li>– Post-Brexit, the UK may implement GDPR as UK legislation while EU companies are bound by EU GDPR. Any variations must be taken into account.</li></ul>	<ul style="list-style-type: none"><li>– Retailers may be required to review their marketing permissions and use of technologies such as cookies to store customer data on terminal equipment.</li></ul>	<ul style="list-style-type: none"><li>– Although MUP is currently only applicable in Scotland, the legislation is considered a test case for the rest of the UK which may see similar regulation enforced in the future.</li></ul>	<ul style="list-style-type: none"><li>– Retailers may need to change the prices of products that have a sugar content above the threshold.</li><li>– Food and drink manufacturers may choose to reformulate their products to reduce sugar content, for example through recipe changes or resizing portions to reduce the impact of the levy.</li></ul>



**67%** of UK CEOs agree that protecting their customers' data is one of their most important responsibilities enabling them to grow their customer base in the future, an increase on 40% of UK CEOs surveyed in 2018.\*



**66%** of UK CEOs and 40% of global CEOs consider information security as a strategic function and source of competitive advantage for their organisation.\*

\* All figures from KPMG's *UK CEO Outlook Survey 2019* and *Global CEO Outlook Survey 2019*

# 2. Protecting your people

Regulation or guideline	Right to Work	National Minimum Wage	Gender and Ethnicity Pay Gap Reporting	Corporate Governance Statement	Apprenticeship Levy	Defined Contribution Schemes
Impact on your business	Before hiring a new employee, retail businesses must undertake a 'right to work' check to ensure that their potential candidate is entitled to work in the UK.	Retailers must adhere to National Minimum Wage regulations setting out the statutory minimum rates of pay per hour. However, there are highly complex technicalities in practice and enforcement powers given to HMRC for non-compliance.	Any UK retailer with 250 or more employees is required to report its gender pay gap on an annual basis by publishing the figures on both their company and a government website. Failure can have negative implications on recruitment practices, remuneration policies, employee relations, talent retention and their brand. A public consultation is also currently under way regarding ethnicity pay gap reporting.	The European Directive has led to changes in Disclosure and Transparency Rules which require listed retailers to disclose the diversity policy applied to the age, gender, educational or professional backgrounds of their staff, the objectives of their diversity policy, how it has been implemented and the outcome.	All UK retailers with a wage bill greater than £3 million are subjected to an Apprenticeship Levy of 0.5% of their total pay bill. This can only be used to fund the training of the employer's apprentices delivered by approved training providers. However, it is possible to share unspent Levy funds with your supply chain. Any unspent funds expire after 24 months.	There is a statutory requirement for auto enrolment pension schemes to make minimum employer contributions 3% of qualifying earnings from April 2019. Employee contributions have also now increased to 5% where the employer is only paying the minimum.
Key challenges to ensure compliance	<ul style="list-style-type: none"><li>Retailers don't always know which documents will constitute a compliant check as many different types of documents can be supplied as proof of right to work.</li><li>Requirements in relation to EU nationals working in the UK may also be impacted by Brexit with increased resourcing needed in HR departments to manage the transition.</li></ul>	<ul style="list-style-type: none"><li>Making sure all workers are categorised correctly e.g. salaried, time or unmeasured.</li><li>Understanding the technicalities on how to treat all pay, time and deductions codes.</li><li>Understanding working practices 'on the ground' and the impact they may have on compliance.</li><li>Setting up payroll systems correctly and retaining records to ensure the right payment has been made.</li></ul>	<ul style="list-style-type: none"><li>Assessing the correct data to use for accurate calculations.</li><li>Using data to identify the cause of any gaps.</li><li>Using the data to implement positive change.</li><li>Tracking the impact of any changes on staff remuneration, employee benefits and employee relations.</li></ul>	<ul style="list-style-type: none"><li>Ensuring you have a diversity policy in place or can explain why if one doesn't exist.</li><li>A complaint can be filed by the Financial Reporting Council (FRC) for non-compliance resulting in financial and reputational damage.</li></ul>	<ul style="list-style-type: none"><li>Selecting a suitable, high quality training provider to deliver your apprenticeship programmes in a manner that is consistent with the funding rules.</li><li>Attracting and retaining talent and increasing diversification.</li><li>Considering the impact of digitalisation to address the skills shortages.</li><li>Reducing costs of existing training programmes by aligning or replacing with new schemes.</li></ul>	<ul style="list-style-type: none"><li>All open pension schemes will need to satisfy the minimum requirement.</li><li>Businesses need to manage the impact of the costs. Salary sacrifices may reduce costs and some employees may opt out of the pension scheme altogether.</li></ul>

# 3. Managing risk in your supply chain

Regulation or guideline	UK Modern Slavery Act	UK Bribery Act	Groceries Supply Code of Practice	Money Laundering Regulations 2017
Impact on your business	<p>The UK Modern Slavery Act 2015 (MSA) requires businesses to prepare a modern slavery and human trafficking statement demonstrating their commitment to address these issues.</p> <p>Recommendations following the Independent Review of MSA may lead to greater clarity on the companies in scope, improve the quality of statements, and embed modern slavery reporting into business culture.</p>	<p>The UK Bribery Act 2010 was enacted to tackle bribery and corruption worldwide, placing the accountability on UK incorporated companies to try and prevent these behaviours.</p>	<p>The Groceries Supply Code of Practice (GSCOP) was introduced to regulate the way retailers manage their relationships with their direct suppliers, preventing them from transferring excessive risk and unexpected costs. Currently 12 large grocery retailers are GSCOP regulated.</p>	<p>All luxury goods retailers who make or receive payments in cash of €10,000 or over must register with HMRC for anti-money laundering and counter terrorist financing supervision and implement policies and procedures to help prevent financial crime or risk prosecution.</p>
Key challenges to ensure compliance	<ul style="list-style-type: none"><li>– Few MSA statements report in detail as companies struggle to understand their complex supply chains, comply with competing regulatory demands, get internal and external buy-in to implement programmes to combat modern slavery, and find the balance between the commercial and compliance aspects of their organisation's responsibilities.</li></ul>	<ul style="list-style-type: none"><li>– Effective diligence procedures including policies, training programmes, and ongoing monitoring, can present a huge challenge, particularly for those with a vast network of third party agencies that they transact with.</li></ul>	<ul style="list-style-type: none"><li>– Understanding the code and how it affects your organisation.</li><li>– Ensuring the person responsible has the correct knowledge to safeguard your organisation.</li></ul>	<ul style="list-style-type: none"><li>– Conducting risk assessments to identify potential areas of financial crime.</li><li>– Developing or enhancing financial crime policies, controls and procedures including due diligence checks, reporting suspicious activity and providing guidance and training.</li></ul>



**35%** of UK businesses state that they are lacking in governance and ethics experts.\*

# 4. Paying your taxes

Regulation or guideline	Corporate Criminal Offence	Making Tax Digital	IR35	Digital Services Tax	OECD Transfer Pricing Guidelines	Senior Accounting Officer
<b>Impact on your business</b>	<p>According to the Criminal Finances Act 2017, a corporate criminal offence is committed when a corporate body fails to prevent its employees or other 'associated persons' from helping a third-party such as a customer or supplier evade tax. This applies to all incorporated entities irrespective of their size.</p>	<p>Making Tax Digital (MTD) is one of the HMRC's key strategic priorities, with the aim of transforming and modernising how tax is reported and managed. Any retailers with a UK VAT registration must comply with the new regulation in a timely manner or risk penalties for non-submission or late filing.</p>	<p>Retailers who engage self-employed contractors using their own personal service company (PSC) – an intermediary – must now determine whether they are subject to the same tax and national insurance contributions as an employee providing the same service directly.</p>	<p>Digital Services Tax (DST) is a proposed 2% tax on revenues derived from certain digital activities. It is likely to come into effect from January 2020 and may impact retailers who derive revenues from UK users via social media platforms, digital marketplaces and search engines.</p>	<p>OECD Transfer Pricing Guidelines (Organisation for Economic Co-operation and Development) require profits returned in member countries to accurately reflect the values generated by local operations. Tax authorities are also increasingly using technology to adopt a forensic approach to testing the evidence that transfer pricing policies and documentation rely on.</p>	<p>Qualifying retailers must notify HMRC of the name of their Senior Accounting Officer (SAO) and provide a certificate to HMRC by the filing deadline for the company accounts to avoid financial penalties. The documentation that HMRC expects as part of the tax governance framework supporting the SAO certification process is set out in HMRC guidance.</p>
<b>Key challenges to ensure compliance</b>	<ul style="list-style-type: none"> <li>– Breaching CCO legislation can result in significant fines, reputational damage and regulatory interest.</li> <li>– The only defence from prosecution is being able to demonstrate that 'reasonable procedures' were in place to try and prevent the facilitation.</li> <li>– A recent Ipsos MORI survey for HMRC<sup>6</sup> suggested a relatively low level of awareness of the regime in the retail sector.</li> </ul>	<ul style="list-style-type: none"> <li>– The new requirements demand retail businesses to implement technology which communicates directly with HMRC's systems via an application programming interface.</li> <li>– Further requirements include digital record keeping and a complete digital audit trail from source system to return.</li> </ul>	<ul style="list-style-type: none"> <li>– Establishing key stakeholders with responsibility for engaging labour and delivering training on new requirements.</li> <li>– Identifying relevant engagements and assessing exposure to issues with quality, cost and performance as a result of potential changes to the workforce composition.</li> </ul>	<ul style="list-style-type: none"> <li>– Retailers must assess whether any part of their business may be subject to Digital Services Tax if this comes into effect, and calculate the amount of revenue linked to UK users.</li> </ul>	<ul style="list-style-type: none"> <li>– Ensuring that tax models and transfer pricing policies keep pace with business change, especially where the relative value or the location of key functions change.</li> <li>– Ensuring that the models and policies are documented properly and followed in practice.</li> </ul>	<ul style="list-style-type: none"> <li>– Qualifying retailers need to consider whether their existing tax governance framework meets HMRC expectations, including maintaining documented tax policies and procedures, undertaking assurance checks and testing on a regular basis.</li> </ul>

6. <https://www.ipsos.com/ipsos-mori/en-uk>

# 5. Producing better business reporting

Regulation or guideline	Payment Practices and Performance Reporting (PPPR)	Non-Financial Reporting Directive	IFRS 16	Tax Strategy Publication
<b>Impact on your business</b>	PPPR regulation requires large companies including retailers to report on their payment practices, policies and procedures and present statistics on actual payment performance to help ensure fair treatment of suppliers. Results are made publicly available allowing for peer to peer comparison.	This regulation requires retailers within scope to disclose information relating to environmental, employee, and social matters, respect for human rights, anti-corruption and anti-bribery. They must identify any risks, describe the policies they have implemented to mitigate adverse effects and report the outcome.	IFRS 16 requires companies to bring most leases on balance sheet for accounting periods from 1 January 2019. Failure to comply could lead to a qualified audit opinion and public scrutiny.	Large retailers must publish their tax strategy on their website on an annual basis to provide more transparency to the public, HMRC and other stakeholders of their UK tax arrangements.
<b>Key challenges to ensure compliance</b>	<ul style="list-style-type: none"> <li>– Interpretation of legislation and application to specific companies can be complicated.</li> <li>– PPPR requires detailed analysis of transactional level data which many companies may not have undertaken previously.</li> <li>– Significant PR and reputational risk may arise for companies who are adverse outliers when benchmarked against their peers.</li> </ul>	<ul style="list-style-type: none"> <li>– A complaint can be filed by the Financial Reporting Council (FRC) for non-compliance resulting in financial and reputational damage.</li> </ul>	<ul style="list-style-type: none"> <li>– Measuring the new lease liabilities and leased assets is challenging for retailers who have many lease contracts.</li> <li>– This is not just an accounting change. Key financial metrics such as EBITDA, EPS and net debt will also change. There are also tax implications meaning new systems and processes may be required.</li> </ul>	<ul style="list-style-type: none"> <li>– Retailers need to anticipate how the strategy could be interpreted by the public and the impact this could have on brand perception. This means drafting a strategy that meets the legal requirements of the legislation whilst reflecting the brand.</li> <li>– They must also ensure that the contents accurately reflect the reality of the business and can be articulated to HMRC if required.</li> </ul>



**19%** of UK CEOs suggest that their tax function manages its department resources effectively, compared to 14% of global CEOs.



**15%** of UK CEOs believe that their tax function generates cash savings for their organisation.\*

\* All figures from KPMG's *UK CEO Outlook Survey 2019* and *Global CEO Outlook Survey 2019*

# Five key steps to consider for managing regulatory compliance



1.

How well do you understand and prioritise regulations that impact your business?



Can you clearly articulate how your business complies with regulations to policy makers?



Do you have sufficient internal and external assurance to give regulators, the Board and your customers confidence in the non-financial information you're reporting externally?



Have you implemented strategic, cost-effective internal risk and control systems to ensure regulatory compliance?



Are you able to anticipate new regulatory developments and plan and implement new strategies to ensure compliance once they come into effect?

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