

BA Business & Law Report

August 2015

Banking & Payment Systems

[Waterstones to introduce contactless payment](#)

Waterstones will roll out contactless payment across its estate “shortly” following a successful trial. The company has trialled the payment method – whereby customers don’t need to enter their debit or credit card pins – recently in a small number of stores, which proved successful. It will now shortly roll the payment method out to its other stores across the UK. WH Smith began introducing contactless payment at some of its travel stores in late 2012.

[Apple Pay: How will it work in the UK?](#)

The world’s most valuable company has extended its mobile wallet service Apple Pay to the UK, making it the first country outside the US to get the facility. The scheme has the potential to further enrich the tech giant. But, of course, it’s far from being the first to try to popularise a digital wallet, and other rival services are on their way.

Censorship & Defamation

[Ban on friends and family sending books to prisoners is lifted](#)

Family and friends will now be able to send books directly to prisoners instead of being able only to order new books via four approved retailers, after a further relaxation of the official policy by the new justice secretary, Michael Gove. Inmates will now also be able to keep more than 12 books in their cells without needing the permission.

Companies & Competition

[Authors, ABA to DOJ: Investigate Amazon’s Abuse of Its Dominance in the Book Market](#)

In an unprecedented joint action, U.S. booksellers, authors, and literary agents called on the U.S. Department of Justice (DOJ) to investigate the business practices of Amazon.com. The action comes as [similar efforts](#) are underway in the European Union. In a [letter](#) delivered to the Department of Justice on July 13, the group Authors United called for an investigation of Amazon’s “abuse of its dominance in the world of books.” The letter stresses that Amazon’s monopolization of the book industry has had a negative impact on free expression and the health of America’s book industry.

[Accusing Amazon of Antitrust Violations, Authors and Booksellers Demand Inquiry](#)

The Authors Guild, the American Booksellers Association, the Association of Authors' Representatives and Authors United said in [letters and statements](#) sent to the Justice Department that "Amazon has used its dominance in ways that we believe harm the interests of America's readers, impoverish the book industry as a whole, damage the careers of (and generate fear among) many authors, and impede the free flow of ideas in our society."

[US: authors ask DOJ to investigate Amazon](#)

Author protest group Authors United is asking authors to sign a letter to the US Justice Department, asking it "to examine Amazon's control of the book market." The letter has been drafted with the help of the Authors Guild. Meanwhile both the American Booksellers Association and the Association of Authors Representatives have "strongly endorsed it", said author Douglas Preston.

[Authors United founder says Amazon's control of the book industry is "about the same as Standard Oil's when it was broken up"](#)

Salon talks to Douglas Preston about why authors are pressuring the Department of Justice to take action

[Here's why the antitrust claim against Amazon by authors groups is doomed](#)

Their latest attempt to get the Justice Department to investigate Amazon for monopolistic practices will almost certainly fail.

Consumer Protection

[ADR welcomes changes to consumer dispute process](#)

Legislation to come into effect in October this year will introduce new mechanisms to assist consumers in resolving their disputes with businesses. The 'Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015' will require that all businesses, once they fail to resolve the consumer's complaint through their own customer service methods, indicate an alternative dispute resolution body relevant to their dispute. Initially the trader will not be required to use the body indicated, but it is hoped that they will be encouraged to do so by the potential benefits in customer relations that such schemes offer. The changes will come into force on 1 October 2015 and will be used in Alternative Dispute Resolution (ADR) to encourage consumers to assert their rights where there has been a reluctance to do so through the formal courts system.

Unfair Contract Terms

The Consumer Rights Act 2015 (in force from 1 October 2015) updates the law on the use of unfair contract terms in consumer contracts. This guidance for businesses will help you to understand what makes terms and notices unfair, and what the risks are if you use unfair wording. It gives advice about how you can make sure contract terms and notices are fair and clear. The Competition and Markets Authority (CMA) has produced 3 types of guidance – short (2 pages), expanded (28 pages) and long (144 pages). This new guidance replaces the Office of Fair Trading's 'Unfair contract terms guidance: OFT311'.

[Unfair contract terms guidance](#) - Ref: CMA37PDF, 1.11MB, 144 pages

[Annex A: historic examples of fair and unfair terms](#) - PDF, 746KB, 97 pages

[Annex B: new elements of unfair terms law](#) - PDF, 107KB, 2 pages

[Unfair contract terms explained](#) - Ref: CMA37(a)PDF, 564KB, 28 pages

[Unfair contracts: what do businesses need to know? \(short guide\)](#) - HTML

[Unfair contracts: what do businesses need to know? \(short guide\)](#) -

Ref: CMA37(b)PDF, 129KB, 2 pages

[Unfair contract terms flowchart](#) - PDF, 160KB, 3 pages

Primary Authority Extension & Simplification

The government wants to ensure that as many businesses as possible can access the benefits of Primary Authority as simply as possible. We have spent six months engaging with stakeholders to review the implementation of the scheme - surveying 350 businesses and 100 local authority officers - and have identified improvements that would make it work more effectively. What is being proposed:

- making it simpler for small businesses to join Primary Authority and access assured advice
- extending Primary Authority to additional areas of legislation, enabling other regulatory bodies to support Primary Authority, ensuring regulators recognise advice issued in other nations
- streamlining the administrative processes for all involved

The booklet [Primary Authority and Growth](#) - first published in March 2015 - gives background on Primary Authority. It highlights examples of businesses that have gained from the scheme, through direct partnerships and as members of trade associations in co-ordinated partnerships.

Proposed New Irish Consumer Rights Bill

The Department of Jobs, Enterprise and Innovation in Dublin has put forward suggested amendments to the Irish Consumer Rights Bill. Summary details about what is proposed can be found [here](#). For the prime documentation for the Scheme, see [here](#) (184 pages).

Sections 80 – 83 affect Gift Card and Voucher Schemes. In very broad terms, under the proposals Expiry Dates for Gift Cards and vouchers are not going to be respected in law in future. And, if you have a Gift Card or Voucher, you will have to notify the consumer before a purchase is made of any fees or restrictions in use. National Book Tokens will be responding to the Consultation.

Copyright & Piracy

CRM Directive: publication of Government response to consultation

The Government has published its response to the consultation on implementation of the Collective Rights Management Directive. The response sets out the Government's current approach to transposing the Directive into UK law, and outlines the next steps in the process. The consultation response and published feedback is available [here](#).

[UK government releases plan to jail online pirates for up to 10 years](#)

The UK government has launched a consultation paper on plans to increase the maximum sentence for online pirates from two to 10 years of imprisonment. The proposed changes to the penalty have been outlined in the Department for Business, Innovation and Skills, and Intellectual Property Office's '[Changes to penalties for online copyright infringement](#)' [paper \(PDF\)](#). Under the proposal, this could mean the penalty for infringing on the rights of copyright holders online will be equivalent to offences relating to the copyright infringement of physical goods.

[Ebooks are unfamiliar waters for digital pirates, according to UK survey](#)

Publishing sector has the lowest level of illegal downloads in the entertainment industry, with book piracy at half the rate of copyright theft in film and music. Just 1% of UK internet users aged 12 and over read "at least some" ebooks illegally between March and May 2015, according to the Intellectual Property Office's [study into the extent of online copyright infringement in the UK](#).

[It is illegal to rip music off a CD or put DVDs onto hard drives, UK High Court says](#)

People in the UK are now breaking the law whenever they rip a CD or DVD, the High Court has ruled. [The ruling had previously been in place, and was then overturned so that CD could be "format shifted" without paying over again](#). But the High Court has ruled that reversal unlawful, meaning that copyright holders for music and films could be in for huge compensation payouts for the illegal ripping.

[IPA: 'Freedom of expression linked to copyright'](#)

A new IPA [report](#) suggests that the poor state of creative industries and of freedom of expression in developing countries is directly linked to the absence of copyright protection.

Do Copyright and Human Rights go together?

Copyright protection is not per se a human right, but it is a tool which protects the human rights of authors and publishers. Copyright impacts on freedom of expression, both of the author and of members of the public who wish to distribute the author's works as part of their own freedom of expression. This does not just mean the freedom to express a certain opinion, but also to choose the appropriate medium to do so, or even to remain silent.

Access the IPA special report on Copyright and Human Rights [here](#).

Data Protection & Privacy

Employment

New Acas Guides

Pregnancy & Maternity Discrimination Guidance

The Equality and Human Rights Commission (EHRC) recently published [new research about pregnancy and maternity discrimination](#), suggesting that around 54,000 new mothers could be losing their jobs every year. See [new guide on pregnancy and maternity discrimination](#).

Equality Guidance

Our new practical advice to help you follow the law on equality and discrimination is now available. The new Equality guides focus on:

1. [Understanding the basics](#)
2. [Preventing discrimination](#)
3. [Discrimination: what to do if it happens](#)

Pay Guidance

Our new [pay guide takes you through the basics to prevent pay problems arising](#). For a small business doing well and looking to expand our '[Employing People – a practical introduction](#)' is a useful training session to grasp the basics.

Holiday Guidance

We've produced [some guidance to help employers with workplace rights around annual leave and flexible working](#).

[Indies wary of the introduction of increased Minimum Wage](#)

The proposed rise in the Minimum Wage announced by chancellor George Osborne in his recent budget will “hit indies hardest”, booksellers have said. Osborne said the Minimum Wage for people aged 25 and over would rise to £7.20 per hour in April 2016 (it is currently £6.50 per hour for those aged 21 or over) in what he described as the “new living wage”. That figure will rise to “over £9” per hour by 2020. However, indie booksellers have expressed anxiety about being able to afford the increase in a tough retail market, especially when many are under pressure from heavy discounting from supermarkets and online rivals, and also from rising business rates.

[Diversity in UK Publishing Still a Challenge](#)

The book industry remains largely white and middle class, while efforts are being made to boost socio-economic and ethnic diversity in publishing.

[Writers demand trade action on diversity](#)

Writers have called on the publishing industry to “take action now” on diversity by offering bursaries and paid internships for all entrants to the industry and mentoring writers from under-represented groups.

Environment & CSR

England Plastic Bag Charge

Letter to Retailers from The Department for Environment, Food & Rural Affairs

If you employ 250 or more people in your business (not just retail staff but across your organisation) and give out single use plastic bags to your customers, in store **or** when delivering goods then you will be required to charge a minimum of 5p for these from 5th October 2015.

You do not have to charge for paper bags. There are also a number of exemptions to the charge. You do not have to charge for bags that only contain:

- uncooked fish, meat or poultry products
- unwrapped food for animal or human consumption - for example, chips, or food sold in containers not secure enough to prevent leakage during normal handling
- unwrapped loose seeds, flowers, bulbs, corns, rhizomes (roots, stems and shoots, such as ginger) or goods contaminated by soil (such as potatoes or plants)
- unwrapped blades, including axes, knives, and knife and razor blades
- prescription medicine
- live aquatic creatures in water

Or for:

- woven plastic bags
- bags used for goods in transport, such as at an airport or on a train, plane or ship
- sealed packaging for mail order and click-and-collect orders (regardless of whether they have handles)
- bags used to give away free promotional material
- bags used for a service but there's no sale of goods, such as dry cleaning or shoe repairs

A bag can contain multiple items from this list and not incur a charge. However, if the bag contains other items then you must charge. For example, you do not need to charge for a bag containing an unwrapped blade and unwrapped loose seeds, but adding a box of cornflakes means you have to charge.

Returnable multiple reuse bags (bags for life) are not included in the charge as long as they fulfil certain requirements mentioned in the legislation and are replaced free of charge when worn out.

This charge is not a tax, so we cannot decide where the proceeds go. We have an expectation that retailers will give the money to good causes and we would like to see some of the money go to environmental causes.

If you are required to charge, you are also required to report to Defra by 31st May each year on how many bags you have distributed and what you have done with the proceeds. This information will be made public. You should therefore send your contact details i.e. name and an email address to Defra at: PlasticBagCharge@defra.gsi.gov.uk. This will make it possible for Defra to contact you to remind you and with details of how to report your information.

The legislation can be found here:

<http://www.legislation.gov.uk/ukxi/2015/776/contents/made>

Guidance for retailers which explains what you need to do in more details here:

<https://www.gov.uk/carrier-bag-charges-retailers-responsibilities>

There are also other resources for you to use on the website, such as posters you can download and print to use in your stores to prepare your customers for the charge and a cue card to help your till point staff respond to questions. These can be found here:

www.gov.uk/carrierbags

Property & Rates

Scottish Business Rates Update

At a Scottish Ratepayers Forum, the main agenda item was the 2017 revaluation. Key points emerging from the meeting were:

- The Scottish Government (SG) is publishing over the coming months Local Authority guidance on the full range of rates reliefs which will also be available to other interested parties.
- The SG will be launching a consultation on Transitional Relief next summer, most likely after the Holyrood election.
- The officials confirmed that they have now assessed the Public Health Supplement and the £95m, as estimated, was raised by the levy.
- The Scottish Fiscal Commission will be undertaking work to provide more scrutiny over the forecasting of NDR income.
- BRIS (Business Rates Incentivisation Scheme) has been refreshed and relaunched with provisional targets set for 2015.
- The local discretionary relief power introduced through the Community Empowerment Bill is likely to come into force on 1 April 2016, however additional secondary measures will be required to bring it into force.
- It was the view of SG officials that there is little prospect of significant structural reform resulting from HM Treasury's Business Rates Review.
- Results of the Valuation Appeals Consultation will be published within the next couple of months.
- Empty Property Rates Relief: The Scottish Government will be launching a review of the changes introduced in 2013/14.

Sales & Trading

[Sunday trading review continues the Government's devolution drive](#)

Under current laws, large stores (over 3,000sq ft) in England and Wales can open for a maximum of six hours on a Sunday, with certain exemptions such as shops at airports and railways stations. The government wants to implement devolved powers to allow mayors and local councils the ability to determine trading hours in their areas.

[BA calls for Sunday Trading responses](#)

The BA is calling on its members to respond to the consultation on Sunday trading.

The [consultation](#) will explore plans to give local authorities the power to allow large shops to open for longer on Sundays to help them compete with online retailers.

[ACS launches guide for retailers on welcoming disabled customers](#)

The Association of Convenience Stores has launched new guidance for retailers on how to meet the needs of disabled customers in store. Developed in partnership with the Business Disability Forum, the guide covers a range of issues including wheelchair access, how to assist blind or visually impaired customers and how to assist those with dementia.

[Book Pricing Not Up For Negotiations – ISDS Mechanism Strongly Opposed](#)

In Strasbourg, MEPs held a debate (and a vote) about the recommendations addressed to the Commission and drafted by the International Trade Committee (INTA) concerning the TTIP agreement. Commissioner for Trade Cecilia Malmström attended the debate and answered, in her closing remarks, some of the concerns voiced by the MEPs. As far as the cultural sector is concerned she promised that audiovisual services would be excluded but, more importantly for us, she said that “Book pricing is not up for negotiations”

Taxation & VAT

IPA/FEP Global VAT/GST on Books & E-Books

Which countries apply most tax to books?

A new IPA/FEP special report reveals wide differences in national approaches to applying Value Added Tax (VAT) or Goods and Services Tax (GST) to books and e-books. Only 22% of countries apply standard rate VAT/GST to printed books, while 69% apply standard VAT/GST to e-books. The global average VAT/GST rate for print is 5.75%, while for digital it is 12.25%. Access the IPA/FEP special report on VAT/GST taxation [here](#).

[E-book VAT 'holds back small markets'](#)

Charging VAT on digital books is “holding back the development of the e-book market in general, and especially in non-English and small-language markets”, the International Publishers Association’s (IPA) José Borghino has said.

[All goods bought overseas to incur 10pc GST](#)

All goods bought over the internet from overseas will be subject to the 10 per cent GST from July 1, 2017, regardless of value, under an agreement crunched between Treasurer Joe Hockey and his state counterparts. The Australian Booksellers Association is proud of the role that it has served in advocating a zero threshold on GST purchases from the inception of this debate, and congratulates the Federal and State Governments on agreeing to this landmark decision, bringing tax fairness to Australia and the State and Federal financial bottom line.