

BA Legal Report

December 2013

Autumn Statement – BRC Briefing

The Chancellor announced that the Office for Budget Responsibility has raised its growth forecast for this year from 0.6 per cent to 1.4 per cent and for next year from 1.8 per cent to 2.4 per cent. Growth for the following three years had also been revised up to 2.2 per cent, 2.6 per cent, and 2.7 per cent in 2017. Expectations of unemployment also improved with the latest estimates suggesting that unemployment will fall to 7 per cent in 2015 – revised from 2017 in March's Budget. Government borrowing will also be lower than expected this year at £111bn, down from the £120bn forecast in March. Borrowing is down significantly more than forecast with public finances expected to be back in the black by 2018-19. The Government is now expected to run a small cash surplus in 2018-19 after almost a decade of austerity. However, the Chancellor was quick to point out that the structural deficit remained unchanged since March with the latest improvement the result of a cyclical turnaround.

Key headline announcements with particular retail sector relevance:

2% cap confirmed

As widely reported, the Chancellor has announced a 1 year 2% cap on Business Rates uplifts for 2014 rather than the 3.2pc September RPI Figure, saving the sector £90m on the increase to Business Rates.

Commitment to review / reform

The government will also publish a discussion paper in spring 2014 setting out the advantages and disadvantages of different options for longer-term reforms to business rates administration which maintain the aggregate tax yield. The government will also consult on reforms to the business rates appeals process and will commit to clear 95% of the September 2013 backlog of appeals before July 2015.

Business Rates discount under £50KRV

The government has also provide additional support to the retail sector through a Business Rates discount of up to £1,000 in 2014-15 and 2015-16 for retail properties (including pubs, cafes, restaurants and charity shops) with a rateable value of up to £50,000, and a 50% discount from business rates for new occupants of previously empty retail premises for 18 months.

There will also be a further extension of the doubling of the SBRR to April 2015.

This means that around 360,000 of the smallest business will continue to receive 100% relief from business rates until April 2015, with around a further 180,000 benefiting from tapering relief.

There will be a temporary reoccupation relief, granting a 50% discount from Business Rates for new occupants of previously empty retail premises for 18 months, to help reduce the number of boarded up shops on English high streets. The relief will be granted to businesses moving into long-term empty retail properties on or after 1 April 2014 and on or before 31 March 2016.

Other Measures

Further headline measures with relevance for the sector included:

- **Employer National Insurance Contributions:** The Government will abolish employer NICs for those under the age of 21 from April 2015. This will save some £465 million in 2015/16.
- **Apprenticeships:** The Government has said it will put business at the centre of the apprenticeship system by enabling employers to receive funding for the training costs of apprentices directly through an HMRC-led system and ensuring that employers contribute. The Government also indicated that it will invest in higher apprenticeships, by providing £40 million to deliver an additional 20,000 higher apprenticeships start over the next two academic years.
- **Tackling Employment Tax Avoidance:** The Government has said that it will legislate to prevent employment intermediaries from being able to avoid employer NICs and circumvent their employer obligations. This will take effect from April 2014 and raise around £400 million per year.

[Eric Pickles launches package of support for local shops](#)

As part of the government's long-term economic plan, Communities Secretary Eric Pickles has set out a billion pound package of support for the UK's high streets. They include a new consultation to tackle aggressive parking policies and a review of double yellow lines legislating to allow "grace periods" and stopping CCTV being used for enforcement. The government will also cap increases in parking penalty charges for the rest of this Parliament, with immediate effect. The importance of online technology is also recognised with a new multi-million pound competition, run by the Technology Strategy Board, being announced to support business-led digital town centres. Additionally the government in partnership with business will fund £4.7 million of research on e-commerce and digital high streets innovations. In planning, changes to permitted development rights will offer town

centres the flexibility they need to adapt existing buildings. The government will consult on permitting change of use from retail to restaurants and retail to cinemas, gyms, skating rinks and swimming pools. They will also consult on allowing installation of mezzanine floors in retail premises where this would support the town centre.

More details are set out in:

[Supporting high streets and town centres: background note](#)

[Consultation on local authority parking](#)

[One Nation Labour is the party of small business and enterprise](#)

Labour's key pledges to help the firms who will bring new jobs and wealth of the future:

- Labour will cut business rates for 1.5 million small business properties
- Labour will freeze energy bills saving the typical small business £5,000
- Labour will fix finance for business with a network of regional banks
- Labour will boost skills so that business and young people are equipped with the knowledge and training they need to succeed
- Labour will be tough on late payers and ensure government sets the best example.

Banking & Payment Systems

[The British Business Bank](#)

The British Business Bank is being set up as an economic development bank to create more effective and efficient finance markets for smaller businesses in the UK. It is a key element of the Government's Industrial Strategy. £1 billion of new funding will help to expand existing schemes, and create new ways to unlock finance for smaller businesses. The bank is also taking over the management of £2.9 billion of existing commitments which help smaller businesses. The bank is bringing together expertise and budgets to support economic growth by improving the UK's business finance markets. It will do this by providing Government funding and targeted guarantees to encourage more private sector lending and investment. The focus is on fixing [imperfections in the market](#). The sort of problems include - a lack of diversity and quantity of finance and low awareness in the market of what is available. There are examples of some of the smaller businesses who have had finance unlocked by our schemes on our [case studies](#) page.

Payment Users' Alliance calls for a competitive and transparent European payment system

EuroCommerce has launched the European Payment Users Alliance with the publication of a [joint statement](#) on the payments package. EuroCommerce and six other European associations (Association of Corporate Treasurers, Modern Restaurants Association,

EUROPIA, HOTREC, UEAPME and ERRT) speak out for the interests of payment systems end-users and highlight where the current proposals do not go far enough. The Alliance will pool their resources and coordinate actions to convince decision-makers to treat this legislation as an absolute priority and amend the proposals in line with end-users' needs. In the meantime, EuroCommerce has met with rapporteur and co-rapporteur MEPs on the package.

Positive EESC Report on Payments Package

The European Economic and Social Committee has adopted a report on the payments package which favours lower fee caps for card payments. The report, prepared by Rapporteur Vincent Farrugia and EuroCommerce expert Ruth Milligan, advocates interchange fee caps lower than those proposed in the MIF Regulation, the inclusion of commercial cards and implementation at national level within six months. A number of contrary amendments were tabled but were resoundingly defeated and the Report was adopted as drafted. It must still be finally adopted at the Plenary session in December.

Consumer Protection

Pricing Practices Guide to be reviewed

The Pricing Practices Guide is to be reviewed by the Trading Standards Institute (TSI) in its new role of provider of business advice. TSI aims to complete the review by April for publication in June 2014. The BRC will respond to the call for evidence highlighting areas for clarification and new issues arising from the development of omni-channel retailing. Meanwhile the BRC is placing a statement on its website supporting this process, together with an aide memoire on relevant legislation and information about reference pricing, and the OFT view.

Cabinet Office presents plans for verification of Digital Identity

The Government is exploring how best to create solutions to prove status and age online. There is currently a lack of a universal approach as to how best to achieve effective online verification. A common solution across private and public sectors could help businesses expand their digital offer to the consumer, including online age restricted products.

European Parliament study on discrimination of consumers in the Digital Single Market

Commissioned by the Parliament's IMCO Committee, the University of Osnabrück has conducted a study, "[Discrimination of Consumers in the Digital Single Market](#)", analysing why consumers are discriminated against when buying products online cross-border, if the

discrimination is against EU legislation, and what possible solutions there are for consumers to fully benefit from the digital single market. Within this study, specific pieces of legislation being analysed include Article 20 of the Services Directive and the Rome I Regulation. One of the conclusions made is that businesses do not infringe EU law by refusing to sell to a consumer in a specific country, and that businesses cannot be forced to provide their services in all Member States. According to the study, search engines and price comparison websites play an important role in creating a non-discriminatory digital single market, with initiatives such as CESL and ODR proving to be a step in the right direction.

Copyright & Piracy

BA Launches New, Lower Cost In-Store Music Service

The BA Music Store is the new royalty-free in-store music service for booksellers, giving you all the benefits of playing music but without the need to purchase a Performing rights Society (PRS) and Phonographic Performance Ltd (PPL license.) The BA has teamed up with Amazing Instore to offer you four product options, giving you a choice approaching 100,000 high quality songs, from all genres of music and one with the option of bespoke in- store messaging. BA members benefit from a 15% discount on list prices. See [here](#) for further information.

['Illegal downloads are acceptable', say half of EU](#)

An EU study reveals that 96% of people agree it is vital to protect intellectual property (IP) rights, but that 42% also believe it is acceptable to illegally download music and films for personal use. This rises to 57% among those aged between 15 and 24-years-old. Some 80% of Europeans agreed that when there is an affordable legal option they prefer to use it rather than illegally download content.

Employment

[Pensions Advice - Help Prepare Your Business For Auto Enrolment Pensions](#)

The BA has worked together with the Independent Retailers Confederation (IRC) to provide BA members with an advice service to help you make sense of auto enrolment pensions. A big shake up of workplace pensions was launched in October 2012 meaning that every employer will be legally obliged to enrol their staff in a workplace pension scheme within the next 5 years (subject to qualifying criteria). It's important for employers to be aware of the deadline when automatic enrolment will impact them, known as the 'staging date'. The requirements are staged over time, the largest corporations started auto enrolment in

October 2012 and the very smallest employers will all become subject to these changes by June 2015.

- Companies with 50 to 249 staff must implement the scheme between 1 April 2014 and 1 April 2015
- Companies with 30 to 49 staff will need to enrol between 1 August 2015 and 1 October 2015
- Companies with fewer than 30 employees will be staged according to your PAYE reference numbers, between June 2015 and April 2016

The IRC have made arrangements to introduce Elliott Sanders of Copthorne Hundred Wealth Management, a Partner Practice of St. James's Place Wealth Management. Phone Elliott Sanders's team on 01372 721616 or email Elliott.Sanders@sjpp.co.uk. *St. James's Place Wealth Management are authorised and regulated by the Financial Services Authority.* www.copthornehundred.co.uk

Environment & CSR

Carrier Bag Charges in England

Following an initial announcement in September, Defra has now published a call for evidence on the Government's proposals to introduce a charge for single use plastic carrier bags in October 2015. The proposed charge differs from those introduced or under consideration in the other UK nations in three key respects. The charge will only apply to plastic bags, and organisations with 250 employees or less will be exempt. In the future, biodegradable bags, which meet a standard, (yet to be specified), will also be exempt. The BRC hosted a round table with Defra officials (which the BA attended) and will submit written and verbal evidence to a House of Commons Environmental Audit Committee inquiry on carrier bag charges. The BRC will continue to make the case that the charge should apply to all single use carrier bags and that the proposed exemptions for small businesses and biodegradable bags should not form part of any final regulations.

Call for Evidence

The Call for Evidence is an opportunity to provide evidence on key aspects of how the plastic bag charge in England will work. Some decisions about how the charge will work have already been made, such as the size of the charge (5p) and what it applies to (single-use plastic bags). The focus for responses is on the areas where the Government is still considering the evidence. See: [Online Survey](#)

Related Documents: [Plastic Bag Charge for England Call for Evidence](#)

Contact: Carrier Bags Team - plasticbagcharge@defra.gsi.gov.uk

Dates: The consultation is open to 20 December 2013

UKGBC Project on Operational Energy Use

The [UK Green Buildings Council](#) (UKGBC) has begun a scoping phase for their project on creating a common resource for measuring, reporting and reducing operational energy use in commercial buildings. The UKGBC project will use data from participants to explore the potential for a single reporting framework aimed at harmonising reporting of energy and carbon data. This will help to mitigate the administrative burden associated with multiple compliance requirements on reporting energy and carbon data.

[A Better Retailing Climate](#)

The BRC has worked with retail members to agree a new set of targets and commitments under the BRC's environmental sustainability initiative – 'A Better Retailing Climate'.

A new set of targets and commitments will be launched at the House of Commons on 29 January 2014 by the Defra Secretary of State, the Rt Hon Owen Paterson MP. The accompanying report will also report on progress made by signatories in the final year of the current targets.

Loss Prevention

[Retail crime cost retailers £3.4 billion last year: new study](#)

A new report has revealed that shoplifting, employee or supplier fraud, organised retail crime and administrative errors cost retailers more than £3.4 billion last year. The cost of these losses to UK shoppers averaged £124.60 per household and represented 1.2% of retail sales, according to the 2012-2013 Global Retail Theft Barometer. Shoplifting represented the biggest problem to UK retailers, accounting for 36% of total loss. However, theft by employees was also a major concern, making-up 33% of the overall figure. Administrative or non-crime losses and supplier fraud were estimated at 25% and 6% of the total amount respectively.

[Focus on business crime](#)

Business crime in the capital is a priority for both the Mayor and the Metropolitan Police Service (MPS). To this end the Mayor's Office for Policing and Crime (MOPAC) has produced a draft Business Crime Strategy for full public consultation: [Draft Business Crime Strategy](#)

[Business Impact Statement](#)

The new MOJ Victims' Code is now in effect, meaning that businesses will be able to make an impact statement to explain to a court how a crime has affected them. If your business has been a victim of crime and you report this to the police, you can make an Impact

Statement for Business (ISB). The ISB gives you the opportunity to set out the impact that a crime has had on the business such as direct financial loss, and wider impacts, e.g. operational disruption or reputational damage. The court will take the statement into account when determining sentence. All businesses and enterprises (including charities but excluding public sector bodies), of any size may make an ISB through a nominated representative. You should be informed about the opportunity to make an ISB by the police at the same time as they take statements about the alleged offence. You can make an ISB to the police at that time or download the attached template form which you can complete and email or post to your police contact.

- [Business Impact Statement Form \(Open Document Format\)](#)
- [Business Impact Statement Form \(Portable Document Format\)](#)
- [Business Impact Statement Form \(Microsoft Word\)](#)

National Retail Crime Steering Group

The first meeting of the National Retail Crime Steering Group (NRCSG) with the new Home Office minister for crime prevention, Norman Baker, was held at the end of November. The Group, which the BRC co-chairs alongside the Minister, provides a strategic-level forum for co-operating on retail crime issues. A new operational working group has been established to help deliver the NRCSG Work Plan under the chairmanship of DCC Sue Fish, the ACPO lead for business crime. The BRC will be working with counterparts on the NRCSG to take forward the various strands of activity in the Work Plan. These include supporting the drive to have a single national definition for business crime adopted by ACPO, so that business crime can be adequately recorded by police forces.

Property & Rates

Government proposals to improve transparency in the business rates valuation and formal challenge system

The Government's has launched a [consultation](#) to improve transparency in the Business Rates valuation and formal challenge system.

Welsh Business Rates

The Government has published its response to the recommendations of the Silk commission. The Commission's recommendations were for the Welsh Government to be granted full control over business rates and also to have the power to legislate to introduce specified taxes, with the agreement of the UK Government on a case-by-case basis. The Government accepts that fully devolving business rates would be consistent with increasing the accountability of the Welsh Government.

[National Planning Framework Fails Town Centres & High Streets](#)

An independent review of the planning system has revealed that the Government's Town Centre First policies are failing, as Councils across the country approve millions of square feet of new out of town retail development. The report analysed a national sample of 50 case studies of planning applications for new retail developments to discover how local planning authorities are applying specific rules laid down in the National Planning Policy Framework designed to promote investment in town centres. Findings from the report include:

- 76% of the new retail floor space given planning approval since the new national planning laws came into force is located outside of town centres
- Only 7 out of the 50 applications (14%) were refused planning permission – of which 3 were refused because there was a competing similar proposal in the same town which was preferred.
- Of the 43 developments permitted, 5 were in town centres (12%), 7 were edge of centre (16%) and 31 were out of town (72%).

The report concludes that the sequential and impact tests are not being applied effectively, that Development Plans are either out-of-date or lack sufficient details to give a clear indication of what the decision indicated by the Plan should be, and that supposed evidence based retail assessments are nothing more than advocacy documents promoting the case of the developers.

On the launch of the report, a coalition of organisations including the Association of Convenience Stores, Federation of Small Businesses, Campaign to Protect Rural England, British Independent Retail Association, Rural Shops Alliance, Association of Town and City Management, Action for Market Towns and the Town and Country Planning Association has written to Eric Pickles MP, the Secretary of State for Communities and Local Government calling for intervention to ensure that applications are blocked when they fail planning tests and a requirement for the Secretary of State to step in and review decisions that put town centres at risk.

The survey covered a representative sample of half of the local planning authorities in England (excluding inner London). The applications considered account for more than 2 million square feet of new retail floor space granted planning approval since the National Planning Policy Framework came into force. The full report is available to download [here](#). The letter to the Secretary of State is available [here](#).