The State of E-Compliance Among U.S. Retailers

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ABSTRACT

With increased Internet usage in the EU, U.S. retailers have intensified their marketing efforts to reach these consumers. A major challenge for retailers selling online is that they must comply with the laws where the consumers reside. Past studies suggest that U.S. firms are not in full compliance with non-U.S. e-commerce laws. This study examines U.S. retailers’ relative compliance with U.S. and non-U.S. e-commerce laws. E-commerce laws were selected from three EU countries and the U.S. The laws addressed two levels of web site functionality: 1) providing basic company information and 2) privacy protection during information exchanges. The authors found that U.S. retailers were more compliant with U.S. versus non-U.S. law. In addition, compliance with non-U.S. law declined as Web site functionality increased with no such decline for U.S. law. These results are important because noncompliance may result in stricter regulations and may also drive consumers away from retailers’ Web sites.

Keywords: E-Commerce, E-Compliance, International Law, Self-Regulation, Stakeholder Theory

INTRODUCTION

The advent of the Internet coupled with advances in information technology has dramatically changed the competitive landscape by allowing U.S. retailers to market products to consumers around the globe. It has been estimated that 75.2% of U.S. retailers sell their products internationally on-line, and of the 24.8% not selling internationally on-line 60.3% are assessing the possibility of selling to customers outside the U.S. (Internet Retailer, 2010). As a result of increased interest by both the consumer and retailers, retail sales in Europe are projected to reach €171.9bn (£145.8bn) a year by 2016 (Internet Retailing, 2012).

For consumers to shop on-line, they must trust the retailer and have confidence with the structural assurance of the Internet (Peeples, 2002, Mukherjee & Nath, 2007). The propensity to trust a retailer is important as buyers have to make a conscious choice to put aside any doubts...
before entering a relationship with a seller who is often located in another country. Structural assurance hinges on the fact that the Internet has both protective legal and technological structures which insure that web transactions can be conducted in a safe and secure manner (McKnight, Choudhury, & Kacmar, 2002). Lui, Marchewka, Lu and Yu (2001) and Lee, Kang, and McKnight (2007) also found that the absence of these two factors diminishes consumer interest in buying on-line from a retailer.

Therefore, it is important that all digital transactions comply with local e-commerce law. The act of meeting regulatory conditions is referred to as e-compliance, which according to Gasser and Haeusermann (2007) is the management of the risks at the intersection of law, technology and the market that have emerged through and in reaction to computerization and digital networking. To be e-compliant retailers must: 1) know what laws, statutes and directives apply to various customer interactions; 2) decide to comply with the laws and regulations; and 3) make a good faith effort to modify their Web site such as matching the terms and conditions of sale with local requirements. For the purpose of this paper, we define e-compliance as the degree to which a company’s Web site complies with the laws and regulations of the targeted marketplace.

Rugman and Verbeke (1998) argue that a company’s decision to comply with international policy is often driven by the expected economic benefits derived from that decision. That is the cost of modifying one’s Web site is offset by the revenues gained. Therefore, management tend to employ one of four strategies: 1) a performance-driven strategy that accepts international regulation because it is a proven way to do business abroad; 2) an enforcement-driven strategy that avoids costly sanctions such as fines and lawsuits; 3) a non-compliance strategy where management sees no value in following the laws; and 4) a conditional non-compliance strategy where management realizes that the governing body has limited means to enforce the laws and regulations.

While a non-compliance and/or conditional non-compliance strategy saves money in the short-term, it can create a legal minefield over the long-term (Quelch & Klein, 1996; Murray, Vick, & Worley, 1999; Zugelder, Flaherty, & John, 2000). For example, after launching its Web site in France, Amazon learned that the government limited discounts on books to five percent. As a result, Amazon had to find ways to compete other than price (Harrison-Walker, 2002). In another case, a French judge ruled that Yahoo! must block French users from access to Nazi-related memorabilia or face steep fines. It took nearly three years for the accusations against Yahoo to be dismissed. During this time, management had to deal with an extensive publicity crisis (Laudon & Traver 2003).

In another instance, the German government sought to prevent violation of its laws against pornography by ordering CompuServe to disable access by German residents to certain global newsgroups. CompuServe was also ordered to pay a fine of more than $56,000 (Johnson & Post 1999). eBay was fined 1.7 million EUR in relation to an injunction that prevents French eBay users from buying or selling LVMH Group perfumes and cosmetics on any eBay website (PR Newswire, 2009). Most recently, three Google executives were convicted for violating privacy laws as the company did not act fast enough to remove from its Web site a video posted in 2006 showing a group of teenage boys harassing an autistic boy. This move to hold the company or its executives responsible for text, photographs or videos made available by third parties through Google and its on-line services demonstrates the changing landscape as it pertains to e-compliance (Canberra Times, 2010).

These cases illustrate the many risks e-marketers face by adopting a non-compliance and/or conditional con-compliance strategy (Baumer & Poindexter, 2002). To explore the current state of e-compliance among U.S. retailers, this paper will review the relevant literature, present the results of a descriptive e-compliance study, and discuss the implications of our findings.
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