



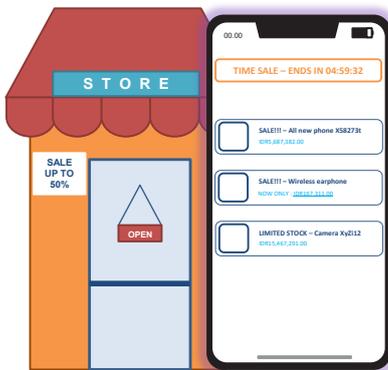
TRENDS AND ISSUES FOR RETAIL BRANDS TO CONSIDER TODAY

BY VIK TANG, MICHELLE VIRGIANY AND NOVITA WULANDARI
OCTOBER 2020

Our behaviour as consumers has changed over the last few years, and the change has been more dramatic since the Covid-19 pandemic hit us, both here in Indonesia and elsewhere. In this article we describe some of the recent trends in Indonesia's retail sector, and the issues that retail brands here will need to consider. Some of these trends and issues will no doubt also apply to other jurisdictions.

1 Shift to online presence and changing role of brick-and-mortar shops

Brands now need to be able to sell their products online. The question is whether this will be done through their own websites, official stores on online marketplaces, or a distributor's online channels.



Brands also need to ensure they have strong social media profiles and staff designated to handle online messaging channels such as Instagram, Twitter, WhatsApp and LINE. Increasingly, and especially following the onset of the Covid-19 pandemic, even established global brands are now selling their products through these online messaging channels, which had previously been considered informal sales channels. Brands need to plan their logistics and payment channels so that they can meet customer expectations of speedy delivery and cash-on-delivery facilities.

With this shift to online sales channels, we can expect fewer brick-and-mortar shops to exist in the future, although they will still have a role to play. Customers will still crave to enter physical stores to have an experience they will not get online. So the shift might include combining a brand's products with in-store services, or simply ensuring that customers receive excellent face-to-face customer service.

2 Purpose and accountability

It is no longer enough just to have good products. Customers also want to know what the brand they are buying stands for, the story behind the brand's owner, and the values the brand wants to promote. This has led some brands to adopt a direct-to-consumer model, which allows them to shape and control the message delivered to customers.

The importance of staying on top of social media channels cannot be stressed enough, as customers are now investigating brands before making their purchases. Customers are becoming more likely to avoid purchasing brands exhibiting values not in line with their own. For example, in recent months, brands have been called out for not supporting the Black Lives Matter movement, and for not allowing shop assistants to stay at home when their physical stores were closed due to lockdowns.

Customers are holding not just the brand itself accountable, but also the brand owners and board members. When brands started to lay off workers during the pandemic, customers used online platforms to share data on management salaries and the owners' net worth.

There is an increasing emphasis on inclusivity and sustainability. In the cosmetics space, for example, having ten shades of foundation is no longer enough - customers want beauty brands to offer a wider range of shades that cater to more varieties of skin tone. Slogans may have to be revisited, as previously accepted language may no longer be acceptable today. Brand owners also need to consider customers who prefer to purchase from companies that have adopted sustainable practices, such as using biodegradable packaging rather than plastic.





3

Technology for personalisation and speed

Customers value speed even more than before. The more instant gratification that technology brings us, the more we crave for speed of service. We expect almost instant responses to questions put on online and social media platforms, requiring brands to have multiple account managers. We want our orders delivered as quickly as possible, so logistics and delivery businesses that support online retail have to adapt accordingly. Those that can respond to this market demand are now thriving.

Brands are, and should be, stepping up their adoption of technology to better serve customers with increasingly personalised services and products. Some brands have already invested in (or acquired) technology companies. Chat bots and AI are being used to offer 24-hour customer service, robots are automating supply chain processes, and augmented and virtual reality applications are giving consumers a tailored experience from the comfort of their home.



Recent developments in contextual commerce have allowed customers to immediately place orders for items they see on social media platforms, or while watching shows online. Before long, brands may start using AI to “personalise” prices, offering a different price depending on the customer’s identity and location, and the timing of their order.

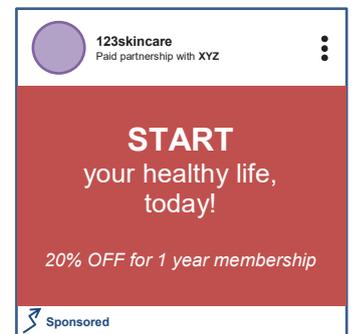
4

Influencers and targeted advertising

Brands are finding new ways to advertise their products. They have had to adapt to new social media channels over time, such as Facebook and Instagram, and now TikTok. Hiring global celebrities was once the only way to get products known worldwide, but marketing efforts have now trended to a more grassroots approach, with local influencers and content creators rising in importance. Some brands also rely on their founders’ social media channels to promote their products.

Indonesia has not yet introduced advertising guidelines for social media influencers, as the ASA has done in the UK, for instance. Their introduction would help to ensure that local influencers apply globally consistent standards in identifying gifted products, paid promotions and affiliate links.

Technology has also enabled brands to be more strategic in their advertising by targeting specific customer segments, advertising during specific windows and tracking the sales generated from each online advertisement.



5

Regulatory considerations

As sales and interactions are increasingly conducted online using advanced technology, brand owners need to address the associated data protection and cybersecurity issues. They must ensure their customers have consented to the collection, use, and sharing of their data, ideally in a user-friendly manner and avoiding unnecessarily long agreements. They must also store customer data securely. Addressing these two issues will require additional investment by brand owners.

Brands will also incur other costs to ensure compliance with new regulations issued by various governments around the world. For instance, Indonesia has new regulations on data localisation, electronic systems certification and digital tax, and on local representative offices that act for offshore marketplaces. Brands will need to design online sales platforms that comply with the applicable requirements for entering into electronic contracts and using electronic signatures.

While regulatory issues may not be a favourite topic for brand owners, a one-time upfront investment can help minimise the likelihood of difficulties down the line.

These issues do not only affect household brands. Smaller, independent brands will also have to comply with the local regulatory framework, both to avoid difficult conversations with local regulators, and to enable them to secure funding from investors.

Key contacts



Vik Tang
Senior International Counsel
Hiswara Bunjamin & Tandjung
Partner, Herbert Smith Freehills
T +62 21 3973 6118
vik.tang@hbtlaw.com



Michelle Virgiany
International Counsel
Hiswara Bunjamin & Tandjung
Senior Associate, Herbert Smith Freehills
T +62 21 3973 6117
michelle.virgiany@hbtlaw.com

The contents of this publication, current at the date of publication set out above, are for reference purposes only. They do not constitute legal advice and should not be relied upon as such. Specific legal advice about your specific circumstances should always be sought separately before taking any action based on this publication.

Herbert Smith Freehills LLP and its affiliated and subsidiary businesses and firms (including Hiswara Bunjamin & Tandjung) and Herbert Smith Freehills, an Australian Partnership, are separate member firms of the international legal practice known as Herbert Smith Freehills.

© Hiswara Bunjamin & Tandjung 2020