

WELCOME

E-Commerce in a Pandemic Environment

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Dave Pentland, Carson International & Daniel Kiselbach, Miller Thomson





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Dave Pentland

Vice President | Carson International

604-542-3453

dwpentland@carson.ca

[LinkedIn](#)

Carson.ca



Daniel Kiselbach

Partner | Toronto/Vancouver

416.595.8591

604.643.1249

[Bio](#)

[LinkedIn](#)

dkiselbach@millerthomson.com



E-COMMERCE

It is not the strongest of the species that survives, nor the most intelligent that survives. It is the one that is the most adaptable to change.”

– **Charles Darwin**



E-COMMERCE

- Traditionally businesses were ‘brick & mortar’ operations having physical office space, in-persons contacts and networks of clients, suppliers, partners etc.
- Businesses are shifting to digital business models and operating entirely online.
- COVID-19 has provided business the opportunity to step back, develop and adopt a digital strategy to reshape their business model.



E-COMMERCE – DIGITAL ADOPTION

- Digital adoption requires understanding the applications of the digital technology in order to fully take advantage of its capabilities. For this reason, skill sets for existing personnel will need to be upgraded and where needed people having specific technical skill sets will need to be hired to develop and implement a successful digital strategy.
- One size does not fit all and every organization will need to assess the organization's operational needs and resources (people, training required etc.) to establish the complementary digital company required for its purposes.



- A comprehensive digital adoption strategy must bring together all business functions, both domestic and international. Looking at the big picture will help the company choose technologies that work well together without overlapping capabilities.
- The following type of questions will need to be considered when developing strategy and assessing potential solutions:
 - Is the company ready to export?
 - Does personnel have the skills to successfully develop, implement, and maintain a digital business?



- Which business functions does the company want to integrate into its digital solution? Can purchasing, manufacturing, inventory control, sales, customer service and other functions be fully integrated and use the same or compatible IT systems?
- What are the different user roles provided by the solution and what access rights need to be assigned to various people on the company's team?
- What types of digital solutions would make employees more productive? What would help them to do their job more effectively, or collaborate better? What types of tools or functionality would employees appreciate?
- Where does management see the company going over the next five years and how can digital strategy support the plan?



E-COMMERCE – DIGITAL SUPPORT TEAM

- A successful digital strategy requires a strong digital support team:
 - Technical support for the platforms used for the company's website
 - Customer support – online customer support chat, rapid email response, language support etc.
 - Payment processing
 - Supply chain management – shipping, warehousing, supply chain management
 - People on the ground – sales people, technical staff, service providers, onsite support for customers. Will staff be in-house or contractors?
 - Legal expertise – protection of intellectual property in international markets.



E-COMMERCE - CYBERSECURITY

- Digital business can be vulnerable to cyber attacks. Business should implement measures to protect digital assets in five key areas:
 - Identification
 - Protection
 - Detection
 - Response
 - Recovery
- Businesses can get protection from the cost of recovering from a cyber attack by getting insurance.



E-COMMERCE – BEST PRACTICES

- Businesses have to automate fulfillment tasks to scale. A best practice is to connect sales channels to shipping. Businesses serving multiple sales channels may continue to sell products after stock outs in error which develops separate and inefficient processes.
- Warehouse Management - As order volume increases, error rates tend to rise as employees rush to keep up with demand. A best practice is to utilize a barcode-based warehouse management system that uses mobile devices to scan merchandise. With the right technology, error rates can be minimized, and pick-speed increased.



- Shipping - Growth can also lead to higher than expected shipping costs if shipping processes are not automated. Automating the handoff of customer address information to carriers reduces manual labor and streamlines label creation. Where possible, companies should offer comprehensive delivery services, real-time in-transit tracking, and multiple international shipping options. A best practice is to use a scalable technology solution as companies seek to expand their range of services available to their customers.



E-COMMERCE – CUSMA/USMCA

- The creation of the Canada-United States-Mexico Agreement (CUSMA), member countries have agreed to a set of rules that will facilitate economic growth and trade opportunities through the use of the Internet, as well as address potential barriers to digital trade.
- These rules include commitments to not apply customs duties to digital products transmitted electronically, to protect personal information, and to cooperate on important security issues in electronic communications.
- The CUSMA digital trade chapter ensures that Canadian companies are able to take advantage of expanding online commercial opportunities.



- CUSMA's Digital Trade Chapter ("Chapter 19"):
 - Includes commitments to facilitate the use of digital trade as a means of trade.
 - Supports the viability of the digital economy by ensuring that potential impediments to both consumers and businesses embracing this medium of trade are addressed.
 - Includes commitments that ensure interactive computer services will not be inappropriately found liable for harms in civil litigation for content published on their platforms. These commitments will not prevent Canada from regulating in the public interest or enforcing any criminal law.
 - Ensures that the Parties will not discriminate against or impose custom duties or other charges on online digital products.



- Ensures that Canadian firms can capitalize on the data and digital opportunities both here at home and globally through commitments that protect the free flow of information across borders and minimize data localization requirements, while preserving Canada's right to protect data for compelling public policy purposes.
- Prevents governments in CUSMA countries from demanding access to an enterprise's proprietary software source code.
- Includes commitments by the Parties to maintain measures to protect users from the unauthorized disclosure of their personal information, online fraudulent and deceptive commercial practices, and spam in order to build trust and confidence to engage in digital trade.
- Seeks to promote access to information and communications technologies for persons with disabilities.



- Does not affect Canada's right to establish and maintain domestic laws, policies and regulations pertaining to net neutrality.
- Includes commitments to facilitate public access to and use of open government information to support economic and social development, competitiveness, and innovation.



E-COMMERCE – SECTION 321 – DE MINIMIS IMPORTATIONS INTO THE U.S.

- Section 321, 19 USC 1321 is the statute that describes de minimis. De minimis provides admission of articles free of duty and of any tax imposed on or by reason of importation, but the aggregate fair retail value in the country of shipment of articles imported by one person on one day and exempted from the payment of duty shall not exceed \$800. The de minimis threshold was previously \$200, but increased with the passage of the Trade Facilitation and Trade Enforcement Act (TFTEA).



- Under the Section 321 legislation goods not exceeding \$800 are permitted to enter without formal entry.
- CBP tested a new informal type of entry on September 28, 2019. The new entry referred to as “Type 86” covers entry for low-value Section 321 shipments. The use of Type 86 is a test and currently not mandatory for users.



- An owner, or purchaser of a Section 321 low-valued shipment, or, when appropriately designated, a customs broker appointed by an owner, purchaser, or consignee will be able to file Entry Type 86. Note that consignees may only file by appointing a customs broker to act as the importer of record (IOR) for the shipment. Providing an IOR number is conditional for Entry Type 86, subject to applicable Partner Government Agency (PGA) requirements.



- For importers bringing low-value goods into the U.S., this new entry type should ease both the time and monetary costs associated with shipping. The electronic data interchange simplifies the process for importers and the CBP and further facilitates the use of e-commerce to ship low value shipments into the U.S. It also enhances the capacity of the CBP to target inbound consignments based on risk profile and enforce trade laws.
- Fulfillment centers enable e-commerce merchants to outsource warehousing and shipping. This relieves online business of the necessary physical space to store all products, which is beneficial for merchants without the capacity to directly manage inventory.



- Third-party logistics (3PL) companies in Canada are increasingly recognizing the need to provide tailor made solutions for e-commerce as more retail and wholesale businesses alike start trading online.
- Forward thinking companies will need to integrate the use of e-commerce and low value shipments to U.S. customers along with its regular business lines.



E-COMMERCE – CANADIAN TAX ISSUES

- GST/HST on e-commerce sales are complex and challenging. The Auditor General's report on Taxation of e-commerce in 2019 indicated that the Canadian sales tax system must keep pace with e-commerce and adapt to the challenges and opportunities it presents.
- Canada's sales tax system needs to keep pace with the rapidly evolving digital marketplace. Foreign vendors are not required to pay or collect the GST/HST or to remit it to the CRA. This put Canadian retailers at a disadvantage compared to foreign countries.



E-COMMERCE – CANADIAN TAX ISSUES

- Providers of digital products and services, ranging from e-books and online games to streaming services such as Netflix and Spotify, are not obligated to collect and remit sales tax if they are not “*carrying on business*” in Canada. Instead, the consumers of the service are responsible for determining and paying the associated GST/HST. This creates two major problems.
- For consumers, compliance is virtually nonexistent. This leaves significant amounts of tax revenue uncollected. Enforcement at the individual level would be prohibitively expensive and incredibly unpopular.
- Since the sales tax is not being paid, foreign suppliers have a competitive advantage over domestic companies that are required to collect and remit the GST/HST on behalf of consumers. Sales taxes collected by domestic suppliers add 5 percent to 15 percent to the price of their products. Consequently, foreign vendors can extract more revenue, while charging the same final price as a domestic company, by not charging GST/HST.



E-COMMERCE – PST, HST, QST

- The rates for PST, HST, QST by province and territory are as follows:

Province/Territory	2020 Rate	
	GST/HST	PST
AB	5% GST	n/a
BC	5% GST	7%
MB	5% GST	7% / 6% <small>Manitoba's 2020 Budget indicated the retail sales tax rate would be lowered to 6% effective July 1, 2020.</small>
NB	15% HST	n/a
NL	15% HST	n/a
NS	15% HST	n/a
NT	5% GST	n/a
NU	5% GST	n/a
ON	13% HST	n/a
PE	15% HST	n/a
QC	5% GST	9.98%
SK	5% GST	6%
YT	5% GST	n/a



E-COMMERCE – PST, HST, QST

- With the increase of e-commerce imports into Canada, sales tax and import duty payments on such importations are likely to yield considerable revenue for the public sector.
- However, this will depend on the degree of customs compliance when shipments are processed by delivery operators
- Sales tax and import duty are significantly less likely to be collected when shipments are sent via postal versus express operators. The missed collection of sales tax and import duty on e-commerce inbound postal shipments results in significant loss of public income to Canada (approximately C\$ 1.3bn). This will also distort competition between Canadian retailers and foreign competitors.



E-COMMERCE – U.S. Customs Strategy

- The U.S. Customs Border Protections (CBP) authorities have identified the following challenges for E-Commerce (see: [CBP e-commerce link](#)):
 - *“Consumer habits are changing as the internet empowers individuals to make purchases online. These advances in economic activity have led to increasing volumes of imports of small, just-in-time packages, creating inspection challenges for CBP. E-Commerce shipments pose the same health, safety, and economic security risks as containerized shipments, but the volume is higher and growing. Additionally, transnational criminal organizations are shipping illicit goods to the United States via small packages due to a perceived lower interdiction risk and less severe consequences if the package is interdicted. Furthermore, new or infrequent importers often possess less familiarity with U.S. customs laws and regulations, which can lead to the importation of non-compliant goods. CBP must increase its ability to address the administrative and resource challenges this creates, particularly when coupled with the growing volume of e-commerce trade.”*



E-COMMERCE – U.S. Customs Strategy

- CBP developed its E-Commerce Strategy to encompass four primary goals:
- *Goal 1 – Enhance Legal and Regulatory Authorities to better posture CBP and interagency partners to address emerging threats.*
- *Goal 2 – Enhance and adapt all affected CBP operations to respond to emerging supply chain dynamics created by the rapid growth of e-commerce.*
- *Goal 3 – Drive private sector compliance through enforcement resources and incentives.*
- *Goal 4 – Facilitate international Trade standards for commerce to support economic prosperity.*



E-COMMERCE – U.S. Customs Strategy

- Strategy highlights private industry and foreign governments as key resources in CBP's continuous assessment of the e-commerce environment.
- Strategy includes efforts to educate the public and trade community to ensure they understand their responsibilities as importers to comply with customs regulations.
- Strategy also emphasizes enforcement initiatives, such as streamlining enforcement processes affected by increasing e-commerce volumes, leveraging enforcement partnerships with partner government agencies and foreign governments, and improving data collection from CBP targeting systems and field personnel



E-COMMERCE

- In closing the biggest impact on an already growing ecommerce world has been COVID-19. E-commerce has been the platform that has kept people nourished, clothed and further pushed them away from traditional bricks and mortar shops as countries have restricted the movement of people around the globe. Each company **MUST** be knowledgeable of the needs of their customers no matter where they are in the world and as such take steps to satisfy those needs. Proactive companies in their planning must consider solutions to reduce access restrictions at border crossings and corresponding regulatory requirements.



E-COMMERCE

- *Jeff Bezos , CEO of Amazon has stated that:*
 - *“ If you’re competitor-focused, you have to wait until there is a competitor doing something. Being customer-focused allows you to be more pioneering”*



Questions?

Dave Pentland, Vice President - Carson International

Vancouver Direct Line: +604-542-3453

Email: dwpentland@carson.ca

Dan Kiselbach, Partner - Miller Thomson

Vancouver Direct Line: +1 604.643.1249

Toronto: Direct Line: +1 416.595.8591

Email: dkiselbach@millerthomson.com



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