Why does trust matter?

Businesses live in an age of unprecedented scrutiny. Clients, customers and other stakeholder groups are increasingly demanding greater transparency and ethical behaviour from the businesses with which they interact. Reputation, the sum of past interactions with stakeholders, used to be seen as integral to the ongoing success of a business with its stakeholders. But reputations are frequently failing as a bulwark against sustained scrutiny. Many businesses are now realising that reputation alone is not enough and that something more is needed. That something is trust.

No industry has defined our era nor presented more opportunities and challenges than digital technology. Over the past 30 years it has transformed how business is carried out, from electronic trades on the stock market to online purchases and credit card transactions. A vast amount of information is now held on businesses and consumers, much of it sensitive. In recent years the sheer scale of the information held digitally has been laid bare by various high-profile whistle-blowers and hacks, often pushing forward the debate around regulation and compliance. A data breach, either as a result of internal failures or hacking can cause a drastic breakdown of trust. As one participant put it “trust leaves on horseback and comes back limping on foot; what is painfully acquired is quickly lost.”

In October 2014, Baker & McKenzie hosted the Trust Matters forum, bringing together senior executives from across the world to explore how organisations can build trust in order to meet the expectations of the law, their stakeholders and the communities in which they operate. At the forum, senior executives attended a roundtable to discuss how trust can be built in the digital age. The individuals discussing this topic came from a wide range of industries but all were leaders in their respective fields. The debate took place under the ‘Chatham House rule’ and discussed the following:

- The key regulatory, privacy and compliance issues
- The threats to trust and how to mitigate them
- The role of leadership.
The key regulatory, privacy and compliance issues

Technological developments are happening at an ever increasing pace and regulation is, in many jurisdictions, not keeping up with such developments. This pace of change, driven in the main by developments in cloud computing and the increasing use of mobile, is causing real issues for organisations not just in the technology sector.

The biggest development over the past few years has been the change in generational attitudes to data use and storage. While the law tells us we need to be worried about the use of our personal information and imposes obligations on large sections of the economy, many people freely engage with social media, sharing information in ways unheard of 20 years ago and seem not to care about the potential consequences. However, regulation is starting to catch up and authorities are starting to develop legal frameworks to address this freedom of information. Various countries in the Asia-Pacific region, for example, have introduced a raft of tough laws over the past five years and countries in other regions are now starting to develop the same type of legislation.

“The basic concept in the regulation of privacy in most jurisdictions is that you can do many things with people’s information as long as you tell them,” one participant explained. However telling people via a five page Terms & Conditions document which nobody reads is becoming outdated. While such documents ‘technically’ establish trust, what is needed going forward is the ability to inform the consumer what happens to the data, who the company is, how the information is used, why it is used in this way and how it will be of benefit to the individual. “It used to be about ticking the compliance box, but it’s not a compliance tick-box anymore. We need different privacy regulations for different kinds of activity” explained one participant.

High-profile global events, such as the Edward Snowden disclosures, have also prompted a deeper review of what is being done with data. Companies quickly went from being outraged in the aftermath of such disclosures to engaging with regulators and wanting to change their own policies, one participant explained. Another participant said that although there was a corporate reaction post-Snowden to look at global policies, the governmental reaction was toward localisation. “The reaction is to go local, put a fence around telecoms and IT systems. They want to build national or EU networks. Procurement rules won’t let governments buy from America for example as they would be obliged to make disclosures in the US” explained one participant. In response, another participant said he sensed hypocrisy in this regard as the UK and Germany, amongst others, have the same “draconian” powers.

‘Hacked’ organisations make the headlines with high-street global brand names featuring regularly on the front page in relation to data security breaches. These global organisations face the challenge of addressing compliance across multiple jurisdictions, many of which have out of date regulations in relation to data protection.

The conclusion was summarised by one participant as “working in compliance is about looking at risk, how the risk is mitigated and how we move forward with the mitigated risk.” “Don’t be scared,” another participant explained. “We need mitigation, not black and white elimination. Don’t panic if a risk can’t be eliminated. That’s the key to the future.”

The threats to trust and how to mitigate them

Innovation is at the heart of digital technology, it’s what drives the sector forward. Third party relationships in technology have always been important and are becoming more so as new ways of storing data remotely become increasingly prevalent and popular. Access to third party relationships can enhance the core offering as well as providing the consumer more choice and flexibility. On the flip side, such relationships and technological advances may also pose risks and new threats to trust may emerge. Managing this proliferation of new technologies and by association, how companies ensure third party partnerships don’t lead to an erosion of trust, is key.

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Technological espionage has become more sophisticated, the participants were told. It is no longer necessary to plug devices into computers to extract information. One leading technology organisation estimates that by 2020 we will be able to do all our IT on wearable devices, while advances such as digital visors, will produce an alternative to the internet. The internet of things is an important development, but it also brings security threats with it, one participant said.

With this maelstrom of development and shifting alliances companies need to be cognisant of managing trust. "As companies fragment and make alliances, inherited trust and suspicion become issues," one participant said. "What if you now trust parts of the company and not others? Do you trust them only as much as the weakest link?"

Cloud data storage was given as one example of a third-party relationship. One participant asked what would happen if the cloud provider went bust. "Looking to an analogy from the travel industry, if the travel agent goes bust, you still get your flight which is protected. The cloud industry needs to provide a guarantee too - you don’t want your company to go bust because your cloud provider has."

One participant said the future won’t be better or worse “just a different mix of problems and solutions, but we need to identify the potential problems in order to minimise them.”

The care economy

The panellists discussed the idea of the “care economy”, and its role in the evolution of the wider economy and the development of trust, especially given the increasing role of technology in the world. The “care economy” is generally defined as that part of the economy which utilises human interpersonal skills. The debate was told that while technological automation had so far been confined to low level jobs, soon it would spread to professional jobs.

One participant said there is a realisation that people are increasingly annoyed by capitalism and particularly the extremes of it and there is a recognition that many more senior jobs in the professions can be done by IT. Trust is built through direct and successful interactions and given the expansion of technology and globalisation, reverse-globalisation may become a feature.

The future economy will be more responsive, but still capitalist with a profit motive.

About us

As an advisor to many of the world’s leading businesses, Baker & McKenzie has seen the theme of Trust developing in different ways all around the world. In October 2014, Baker & McKenzie hosted its Trust Matters forum, bringing together senior executives from across the world to explore how organisations can build trust in order to meet the expectations of the law, their stakeholders and the communities in which they operate. Drawing on our global legal expertise as well as the experience of senior business and other industry leaders the forum provided insights into the execution of policies and procedures that, not only deliver business imperatives, but deliver them in a way that builds Trust.

A number of sessions were held at the forum, including Building trust in the digital age. The outputs from each of these sessions have been collated to produce a summary of the discussions on each topic.

For more information, please visit: www.bakermckenzie.com/trustmatters

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