



DESTINATION DIGITAL

HOW SMALL FIRMS CAN UNLOCK
THE BENEFITS OF GLOBAL E-COMMERCE

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45 fsb⁸⁸
YEARS OF SUPPORTING
SMALL BUSINESSES
1974 - 2019

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ABOUT US

The Federation of Small Businesses (FSB) is the UK's leading business organisation representing small businesses. Established over 45 years ago to help our members succeed in business, we are a non-profit making and non-party political organisation that is led by our members, for our members. Our mission is to help smaller businesses achieve their ambitions. As experts in business, we offer our members a wide range of vital business services, including advice, financial expertise, support and a powerful voice in Government. FSB is also the UK's leading business campaigner, focused on delivering change that supports smaller businesses to grow and succeed.

¹ Note that this report is directed to all members of the World Trade Organisation involved in the Joint Statement Initiative negotiations on Electronic Commerce. Therefore, it should not be associated with EU Exit, as this is not Brexit dependent.

Main digital mediums that small businesses use to export



Email (81%)



Own website (44%)



Online platforms/
marketplaces (20%)

Top three barriers for small firms exporting



Tangible Goods

Delivery problems (38%)

Local regulation or
tax policies (20%)

Difficulties receiving
electronic payments (19%)



Intangible Goods

Local regulation or
tax policies (42%)

Data localisation (25%)

Weak protection or
infringement of IP (24%)



Services

Local regulation or
tax policies (34%)

Difficulties receiving
electronic payments (24%)

Data protection requirements (23%)

Type of products small firms export



Tangible goods (66%)



Services (31%)



Intangible goods (14%)

Breakdown of the type of data small business exporters use for international trade



Non-personal data (49%)



Personal data (48%)

Problems small firms experience when trading via online platforms/marketplaces



Malicious or
fake reviews (21%)



Sudden changes to
Terms & Conditions (19%)



Infringement of
intellectual property (13%)

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FOREWORD

The digital trade revolution has taken the UK small business community by storm. It has fundamentally altered the way we conduct business and ushered in a new age whereby the smallest business can go global from day one. Digital technology, in particular, is enabling small businesses to minimise their costs, increase business efficiency and widen their market reach: from their local town or village to trading internationally.

Whether trading through their own website, online platform, or through a variety of different interfaces and selling channels, small firms are embracing digital trade and contributing to that competitive, seamless and convenient shopping experience which consumers increasingly expect in today's economy.

However, small firms engaged in international digital trade are not immune to the many challenges associated with it, which largely stem from its borderless nature. This ranges from the different approaches to Government intervention across the globe to bearing the brunt of unfair practices when trading through specific digital mediums.

Given the borderless nature of digital trade and in light of the potential damaging effects of long-term trade restrictions and incompatibility of regulatory approaches internationally, it is time to revolutionise the global digital rulebook and make it work for the smallest businesses.

The Joint Statement Initiative on Electronic Commerce, currently being negotiated by seventy-six members of the World Trade Organisation, as well as future free trade negotiations, offer a unique opportunity to improve the cross-border digital trade environment for small firms. Yet, this will only be possible if Government and trade negotiators have a greater understanding of how small firms operate in this space and the barriers they face: from issues pertaining to delivery and electronic payment to different data protection frameworks.

Equally important, and not to be viewed in isolation, is the necessary pre-conditions that need to be met in order to ensure small businesses have the ability to engage and compete in digital trade cross-border. This means having access to fast and reliable broadband and mobile coverage across the country, a high adoption rate of digital technology, and the necessary digital skills and access to skilled staff required to run a business engaged in this space.

Small and micro-business owners are ready to take on the opportunities presented by the global digital economy – they just need the right environment to do it. This report offers a blueprint for policymakers to unlock the benefits of the cross-border digital economy for small firms, as well as prioritise those issues that need to be tackled to deliver this.



Mike Cherry OBE
National Chairman

INTRODUCTION

There is no single recognised and accepted definition of ‘digital trade’. However, there is a growing consensus that it encompasses digitally enabled transactions in trade in goods and services which can be digitally or physically delivered and which involves consumers, businesses and governments.²

For instance, a digital trade transaction can include a paperback that is ordered through an online bookseller that is physically delivered or an e-book that is purchased and downloaded to an e-reader or tablet. As a result, digital trade is generally interchangeable with electronic commerce, or e-commerce for short.

The digital information age, which began with personal computing, mobile telephony, the internet and email, has moved even further with the development and rollout of cloud computing, online marketplaces, smart devices and social media. These innovations have helped businesses to reduce costs, increase their efficiency, and widen their market reach.³ Moreover, the nascent ‘internet of things’ has huge potential to generate new opportunities for traditionally agile and innovative smaller businesses.

Alongside these developments, there has been a race to regulate the different aspects of digital trade across the globe: from the protection of personal data, cybersecurity, intellectual property, to the relationship between online platforms and business-users. For instance, the UK House of Lords Select Committee on Communications has called for ‘the development of a comprehensive and holistic strategy to regulate the digital world,⁴ in response to online harms and dominance of the digital world by a small number of very large companies’.⁵

The race to regulate has profound challenges for small firms trying to operate internationally, largely due to the different approaches adopted. For example, how China approaches digital trade is very different to the United States, and the European Union is equally different from the United States and China, especially in the treatment of cross-border data flows. Consequently, small firms operating internationally have to contend with a multitude of barriers impacting trade and work with a patchwork of rules.

This is problematic for small firms, as they are less resilient to regulatory changes, have fewer resources to adapt, are less able to absorb the costs of new administrative and regulatory requirements, and cannot spread the costs of obtaining information and acquiring knowledge about compliance across a larger cost base.⁶

Moreover, similar to how a single digital trade transaction rests upon a series of enabling and supporting factors,⁷ like access to a company’s website and the regulatory environment they operate under, costs and access of broadband, to the ability to pay electronically, small firms may equally be reliant upon different actors in the digital trade supply chain. Therefore, restrictions placed on market access or on the operations of cloud computing services or postal services can drive up costs for small business users.

The status quo is not optimal for small firms engaged in cross-border digital trade, especially with the growing stock and possible incompatibility of regulations, administrative burdens, and trade barriers emerging in different countries around the world. It not only threatens the competitiveness of small firms, in comparison to their larger counterparts, but also deprives consumers of those innovative and unique offerings of our vibrant small business community.

Given the ongoing talks at the World Trade Organisation (WTO) on Electronic Commerce, as well as potential free trade agreements with major trading partners in the future, this report will provide a snapshot of how small businesses are trading internationally, including through different digital mediums, identify those key barriers and obstacles impacting small business participation, and examine possible tools to ameliorate them. This will be followed by a list of recommendations to inform international and national policymakers.

2 Organisation for Economic Co-operation and Development (OECD), Trade in the Digital Era, March 2019, p1, <https://www.oecd.org/going-digital/trade-in-the-digital-era.pdf>

3 Federation of Small Businesses (FSB), Cyber Resilience: How to Protect Small Firms in the Digital Economy, June 2016, p5, <https://www.fsb.org.uk/docs/default-source/fsb-org-uk/FSB-Cyber-Resilience-report-2016.pdf?sfvrsn=0>

4 House of Lords, Regulating in a Digital World, March 2019, p3, <https://publications.parliament.uk/pa/ld201719/ldselect/ldcomuni/299/299.pdf>

5 Ibid.

6 Federation of Small Businesses (FSB), Regulation Returned – What Small Firms Want from Brexit, July 2017, p24, <https://www.fsb.org.uk/docs/default-source/fsb-org-uk/fsb-regulation-returned-report.pdf?sfvrsn=0>

7 Organisation for Economic Co-operation and Development (OECD), Trade in the Digital Era, March 2019, p5, <https://www.oecd.org/going-digital/trade-in-the-digital-era.pdf>

KEY FINDINGS

How Small Businesses Trade

- Key export destinations for UK small firms include Germany, France, Ireland, the United States, and the Netherlands.
- For importers, Germany is the largest market, followed by the United States, China, France and Italy.
- Tangible goods are the most exported type of product, followed by services and intangible goods.
- The top three digital mediums they use for importing and exporting are email, own website and online platforms.

Small Firms & Online Platforms

- Around 20 per cent of current small business exporters and importers use online platforms to trade internationally.
- The top three platforms that small businesses use on a frequent and occasional basis for international trade are eBay, Amazon, and Facebook (including Instagram & WhatsApp).
- Small firms use online platforms for cross-border trade as they reduce the associated costs to internationalisation, raise brand awareness, and provide a range of services: from customer matchmaking to logistics.
- Despite the benefits of online platforms, small businesses suffer a variety of practices that are harmful to their legitimate interests.
- The most common challenges small businesses face when trading over online platforms include malicious or fake reviews (20%), sudden changes to terms and conditions (19%), and infringement of intellectual property (13%).

Use of Data in International Trade

- Small firms handle both personal and non-personal data when selling goods or services to international customers.
- Few small firms are aware of standard model contractual clauses as a means to transfer personal data cross-border, suggesting that most small businesses transfer personal data with countries with whom the EU has an adequacy decision in place.
- Third-party services that deal with data that small firms use include electronic payment services, external accounting, and cloud computing.
- A small proportion of small firms that export and import have adopted or are aware they are required to use international cybersecurity and data management standards when transferring data internationally.

Barriers & Issues Affecting SME Participation

- The most common issues facing all small business exporters engaged in digital trade are delivery problems, unequal or unclear application of local regulations or taxation policies, difficulties with electronic payments, weak protection or infringement of intellectual property rights, and differing data protection requirements.
- There are more barriers associated with selling intangible goods and services cross-border compared to tangible goods.
- For those small firms exporting tangible goods, delivery problems are considered as the top barrier to cross-border trade (38%).
- Unequal or unclear application of local regulations or taxation policies are considered as the main barrier for those small businesses exporting intangible goods (42%) and services (34%).
- Differing data protection requirements, data localisation measures, lack of recognition of electronic contracts or electronic signatures, and differing cybersecurity standards for products or services have a significantly greater impact on those small firms exporting intangible goods and services.
- Connectivity in relation to both mobile and broadband, adoption of digital technology and digital skills are essential preconditions for those involved in digital trade.

Tools to Reduce Trade Barriers for Small Firms

- Digital trade is regulated at several levels: national, regional/supranational, and at the international level.
- Free trade agreements and international forums operate as tools to reduce trade barriers, exchange best practice and promote compatibility between different regulatory approaches.
- From those free trade agreements that have a specific chapter covering digital trade, the United States-Mexico-Canada Agreement (USMCA), which is in the process of being ratified, and the Comprehensive and Progressive Agreement for a Trans-Pacific Partnership (CPTPP) are the most ambitious and extensive.

RECOMMENDATIONS

1. Creating an enabling digital trade framework to support small businesses

WTO members involved in the Joint Statement Initiative on Electronic Commerce should:

- Commit to permanently banning customs duties on electronic transactions and content transmitted electronically, as initially guaranteed under the WTO's 1998 Moratorium on Customs Duties and Electronic Transactions.
- Commit to notifying national measures which may impact digital trade, such as data localisation measures, through existing notification mechanisms and through any future access to information portals, like the Global Trade Helpdesk, as well as to conduct a specific analysis of digital trade measures within the Trade Policy Review Mechanism.
- Commit to the protection of personal data in order to build trust amongst consumers and potential consumers. FSB calls upon negotiators to recognise the different legal approaches and regulatory outcomes for data protection and encourage the development of mechanisms to promote compatibility, where possible, as opposed to setting a prescriptive standard.
- Commit to facilitating electronic transactions by guaranteeing the validity of electronic contracts and electronic signatures, as well as cooperating in the different fora to reduce trade costs.
- Commit to adhering to the principle of non-discrimination and non-discriminatory treatment of digital products.
- Commit to fully implementing the provisions of the Trade Facilitation Agreement, in particular Article 10.4 establishing or maintaining a single window for customs, which enables traders to submit documentation and/or data requirements for importation, exportation, or transit of goods through a single-entry point to the participating authorities or agencies.
- Commit to establishing a reasonable global baseline de minimis value threshold of £1,000 to assist and reduce the costs for small firms trading tangible goods cross-border. This includes working through other international fora to cooperate on the harmonisation of customs duties and thresholds.
- Commit to increasing transparency regarding the remuneration of copyright and related rights in the digital environment and seek to improve governance and ensure protection of intellectual property enforcement.
- 'Think Small First' when developing provisions to ensure that they are designed to work for and are understandable by the smallest of businesses. This includes subjecting any agreement to a mandatory small and micro-business test. Greater consideration should also be given to trade policy areas that disproportionately impact smaller businesses, such as customs facilitation.
- Commit to removing all data localisation measures in place, except if they are required for national security and legitimate public policy objectives. This commitment should be drafted in a narrow way, in full compliance with the provisions of GATS Articles XIV and XIV bis.

The UK Government should:

- Work with like-minded countries at the international level to pursue those issues of importance for small businesses engaged in digital trade as a priority during the negotiations within the Joint Statement Initiative: trade facilitation, protection of personal information, free flow of data, prohibition of customs duties on electronic transmissions etc.

- In the context of its independent trade policy, pursue digital trade commitments in bilateral and regional free trade agreements which address those digital trade barriers impacting small businesses. Moreover, Government should seek to conclude a comprehensive digital trade chapter with key trading partners based upon best practice examples of trade terms contained in USMCA, EU-Japan, and CPTPP.
- Improve co-operation with European and international decision-makers, enforcement agencies, and other private sector actors to address governance gaps and promote enforcement of intellectual property, most notably through the International Forum on Intellectual Property.
- Seek to rollover existing EU adequacy decisions and assess and conclude adequacy decisions with key countries where small businesses trade. This will ensure the free flow of data and remove the burdens and uncertainties associated with model contractual clauses.
- As the UK leaves the EU, intensify efforts to secure an adequacy agreement with the EU to ensure the continued free flow of data between the UK and the EU, reflecting the importance of the EU as UK small firms' largest and closest market.
- As the UK leaves the EU, maintain the GDPR as part of a wider policy of ensuring stability in the short to medium term regulatory environment. In the longer term we may wish to look again at the extent to which existing common law principles can be adapted to regulate data and whether a more proscriptive and less prescriptive model of law might be more optimal for small businesses.
- Conduct a review of postal services within the context of international trade, in particular through any future review by Ofcom of postal users' needs. This should examine issues like last-mile delivery, track and trace, and cost in the cross-border context.

2. Addressing & exploring the impact of unfair trading practices on those small businesses that conduct trade through online platforms

The UK Government should:

- Examine closely the practices and policies of platforms towards their business users and the issue of fair competition across digital platforms, in particular through the ongoing studies conducted by the Competition and Market Authority (CMA), and role in international trade.
- As the UK leaves the EU, commit to transposing the EU's Platforms Regulation into domestic law and bring forward the implementation date, in order to tackle certain unfair trading practices and establish a designated authority charged with the monitoring and implementation of this information. This authority should be empowered to handle complaints, investigate and even take enforcement action where unfair trading practices have been identified.
- When proposing legislation focussed on platforms, greater consideration should also be given to specific provisions that may bring greater benefits to smaller businesses. For instance, how proposed policies may impact a platform's users and hamper a small business' ability to utilise this technology to trade internationally.

3. Ensuring small firms have access to the necessary business ecosystem domestically is a precondition for competing and participating in digital trade

The UK Government should:

- Together with industry and regulators work together to remove barriers to the deployment and installation of full fibre broadband, in order to deliver full fibre broadband connectivity to all premises by 2025. If that is not possible in some of the most remote areas, those premises should be gigabit capable by 2025, which widens the scope of technologies available to achieve such a connection.
- Publicly commit that, as a minimum, no premise should receive download speeds of less than 10 Mbps by the end of December 2021, irrespective of whether they have proactively asked to be connected under the Universal Service Obligation (USO).
- Incentivise small businesses to improve their digital skills in order to take advantage of the opportunities presented by cross-border digital trade.
- Support the promotion of digital technologies and Artificial Intelligence (AI), particularly to less tech-orientated sectors and to micro or small businesses and sole traders.

HOW SMALL BUSINESSES TRADE – A SNAPSHOT

Introduction

Currently, around one in five small firms export directly. Including importers, this equates to around one in three small businesses either exporting and/or importing.⁸ A significant proportion also contribute to UK exports by being part of supply chains where the end product is exported (indirect exports). For instance, around sixteen per cent of small businesses are part of such supply chains – of which, only around two-fifths are actual exporters.⁹

Whilst the role performed by small and medium-sized businesses nationally is not commensurate with their share in international trade,¹⁰ their participation in global markets creates opportunities to scale-up and enhance productivity, by accelerating innovation, facilitating spill-overs of technology and managerial know-how.¹¹ Moreover, internationalisation is strongly linked to innovation, both important drivers of growth among small businesses as well as for UK productivity.¹²

There are three overarching types of a small business exporter - strategic, opportunistic and reactive. Based upon their motivation for how their export journey started, approach and behaviour, and, as a consequence, likely export destinations, small firms tend to fall under one of these three categories. Existing research has shown that, overwhelmingly, over three quarters of the decisions (76%) made by exporters on where to export to resulted, at least in part, from a direct approach from someone (local customer, agent, importer, etc.) in a market. This suggests that being reactive, at least at the start of the export journey, is likely to be the primary approach for the majority of small business exporters.¹³

⁸ Federation of Small Businesses (FSB), Keep Trade Easy: What Small Firms Want from Brexit, March 2017, p11, https://www.fsb.org.uk/docs/default-source/fsb-org-uk/keep-trade-easy_-what-small-firms-want-from-brexit-21-march-2017.pdf?sfvrsn=0

⁹ Ibid.

¹⁰ World Trade Organisation, Joint Ministerial Statement - Declaration on the Establishment of a WTO Informal Work Programme for MSMEs, December 2017, p1, https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S009-DP.aspx?language=E&CatalogueIdList=240862,240867,240868,240870,240871,240899,240875,240874,240878,240877&CurrentCatalogueIdIndex=2&FullTextHash=371857150 &HasEnglishRecord=True&HasFrenchRecord=True&HasSpanishRecord=True

¹¹ Organisation for Economic Co-operation and Development (OECD), Fostering greater SME participation in a globally integrated economy, February 2018, p5, <https://www.oecd.org/cfe/smes/ministerial/documents/2018-SME-Ministerial-Conference-Plenary-Session-3.pdf>

¹² Federation of Small Businesses (FSB), Spotlight on Innovation: How Government Can Unlock Small Business Productivity, July 2018, p38, <https://www.fsb.org.uk/docs/default-source/fsb-org-uk/innovation-report-final.pdf?sfvrsn=0>

¹³ Federation of Small Businesses (FSB), Destination Export – The Small Business Export Landscape, July 2016, p48, <https://www.fsb.org.uk/docs/default-source/Publications/reports/fsb-destination-export-report-2016.pdf>

Where Small Firms Export & Import

Figure 1: Top 30 Export Destinations – by Country

Source: FSB Digital Trade Survey 2019

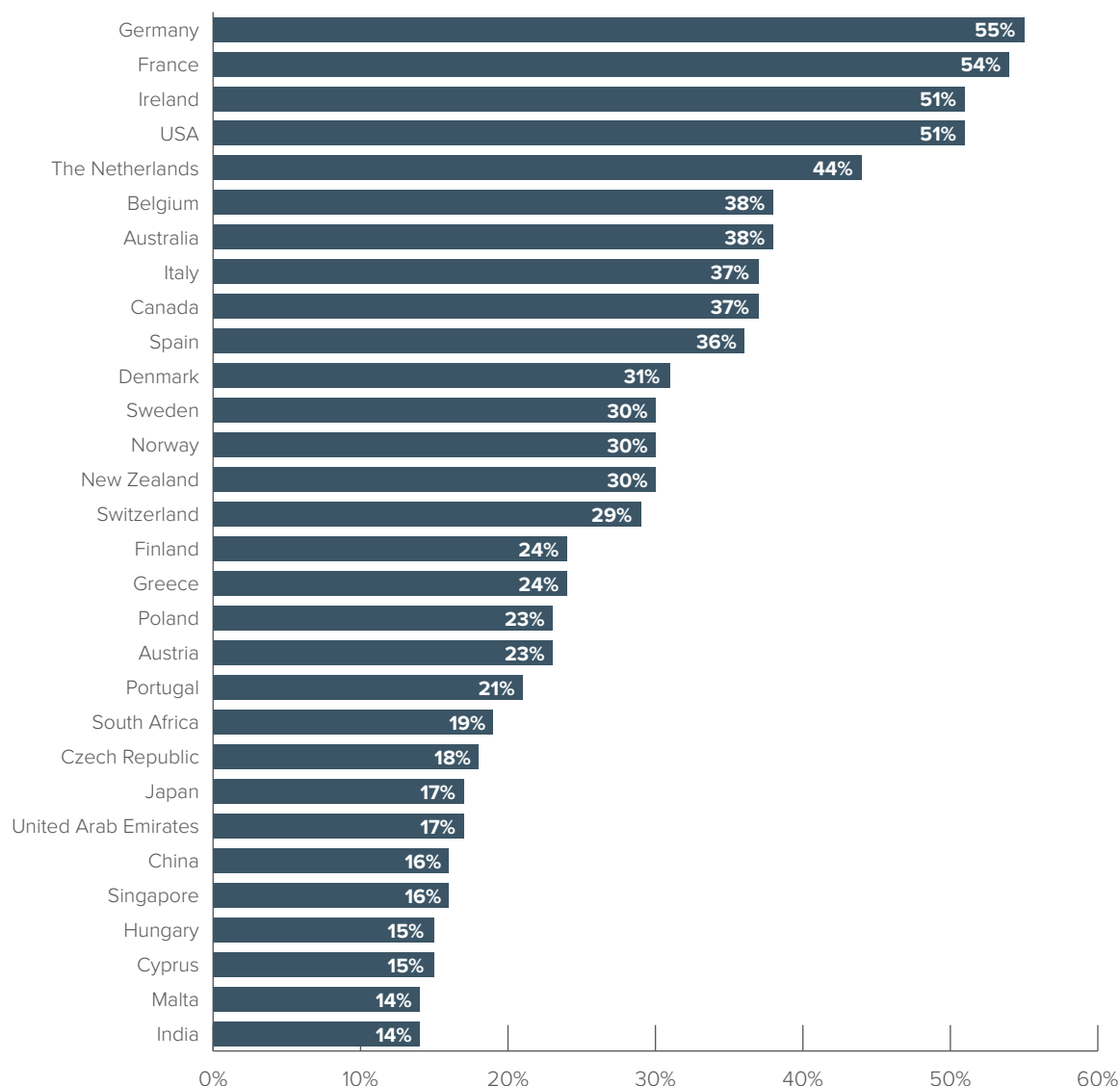
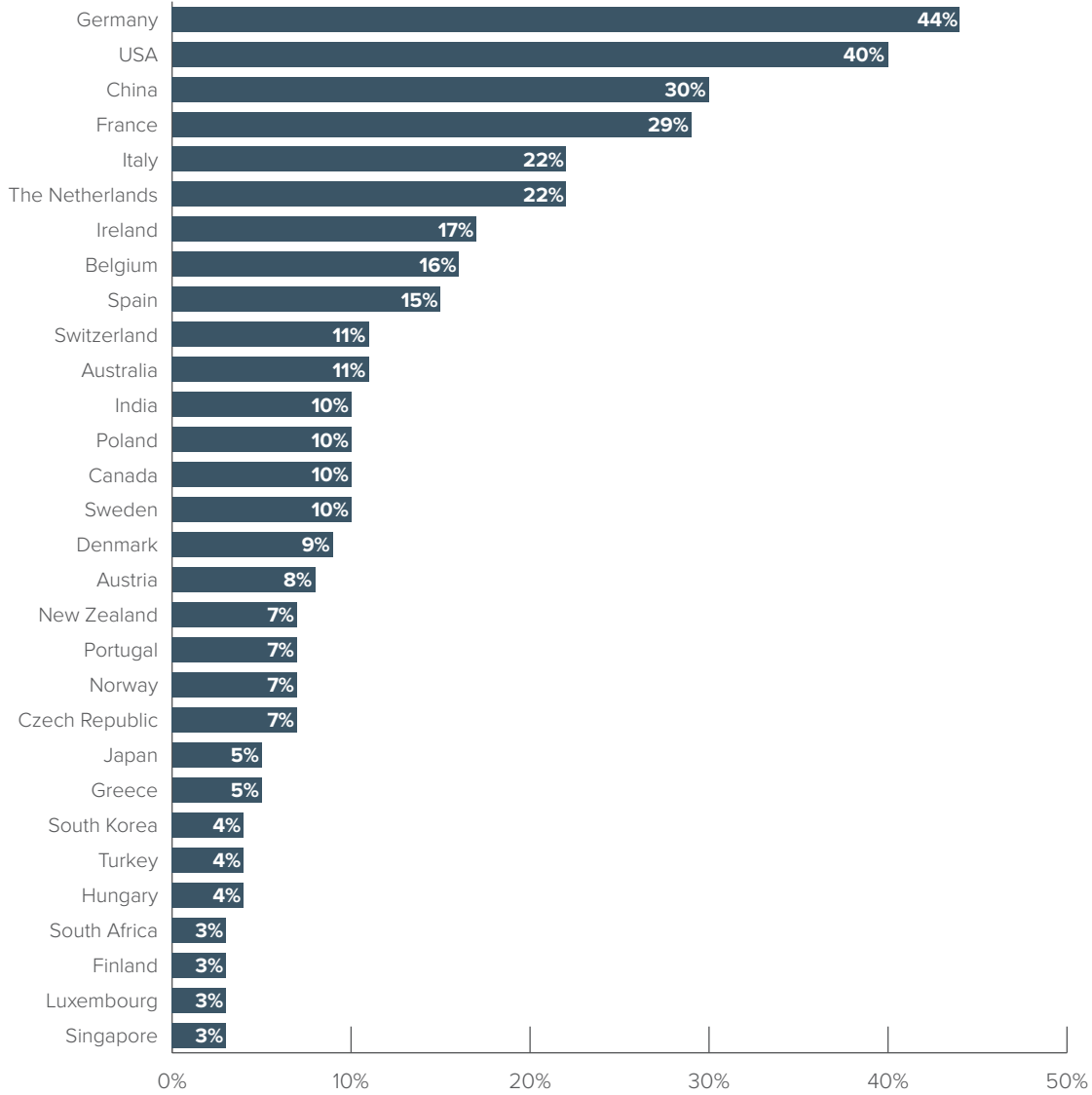


Figure one highlights that, in terms of individual countries, Germany, France, Ireland and the United States are the predominant export destinations for those UK small firms that export. In respect of those markets outside of the European Union (EU), European Economic Area (EEA), and European Free Trade Association (EFTA), the top five export destinations are the United States, Australia, Canada, New Zealand, and South Africa.

The factors which drive small firms to export to these countries are two-fold. In the context of EU or EEA countries, these include issues relating to proximity, costs, similarities in business environment and regulatory equivalence or mutual recognition that cover certain sectors or products.¹⁴ Whereas those markets outside the EU, EEA and EFTA are ones that share some characteristics with the UK, namely English as the national language, similar legal systems and roots in British culture and history. These shared characteristics understandably play a role in facilitating trade and make it easier to do business.

¹⁴ Federation of Small Businesses (FSB), Keep Trade Easy: What Small Firms Want from Brexit, March 2017, p48, <https://www.fsb.org.uk/docs/default-source/fsb-org-uk/keep-trade-easy-what-small-firms-want-from-brexit-21-march-2017.pdf?sfvrsn=0>

Figure 2: Top 30 Countries Small Firms Import From – by Country
Source: Digital Trade Survey 2019



Turning to where small businesses import from, Germany and the United States are the leading markets, followed by China and France. In contrast to the export landscape, small firms are importing predominantly from those markets which have a strong manufacturing or technological base.

What they Export & Import

Figure 3: Type of Products Small Firms Export/Import

Source: FSB Digital Trade Survey 2019

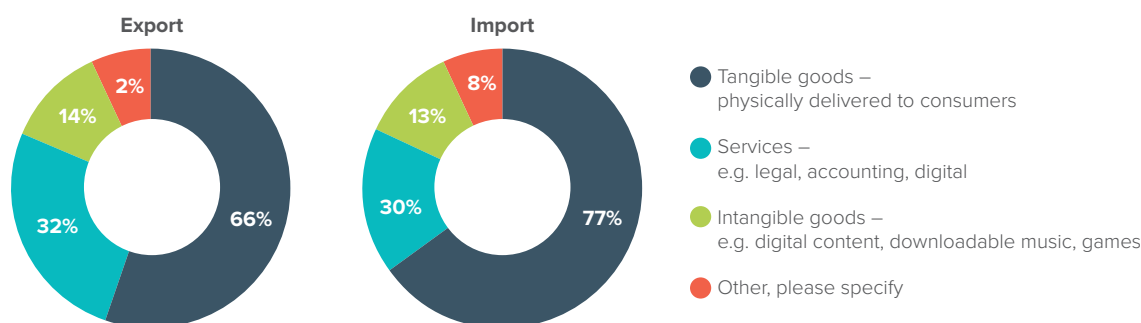
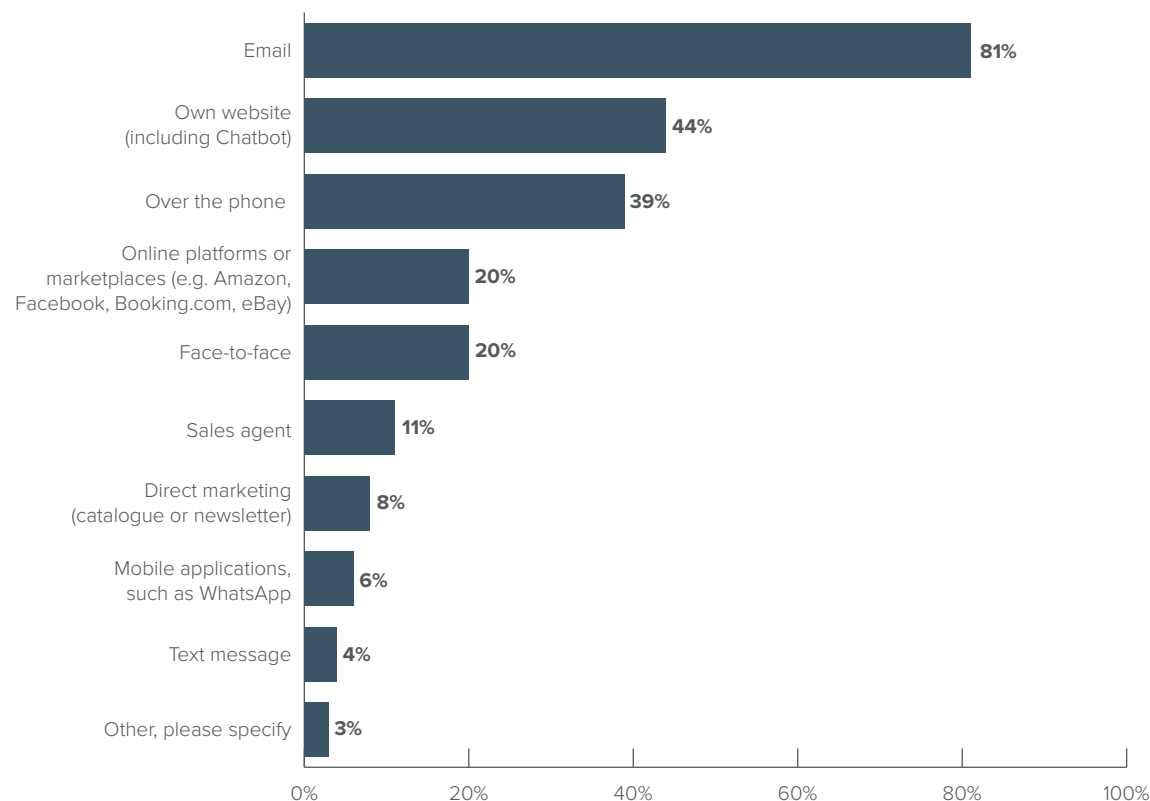


Figure three reinforces previous FSB findings,¹⁵ as it shows the most common type of product traded internationally is tangible goods, which are goods that are physically delivered to the end customer, followed by services and intangibles.

How they Export & Import

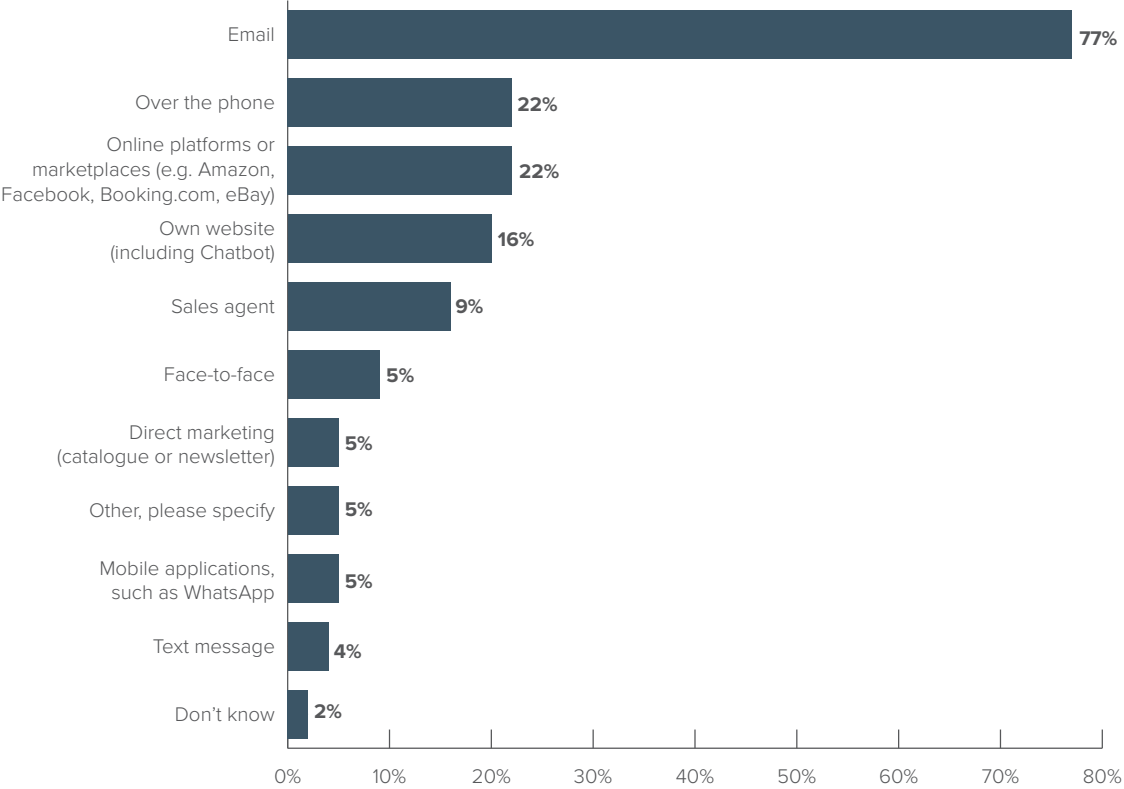
Figure 4: Methods Used to Export

Source: FSB Digital Trade Survey 2019



¹⁵ Federation of Small Businesses (FSB), Destination Export – The Small Business Export Landscape, July 2016, p48, <https://www.fsb.org.uk/docs/default-source/Publications/reports/fsb-destination-export-report-2016.pdf>

Figure 5: Methods Used to Import
Source: FSB Digital Trade Survey 2019



In terms of how small firms receive orders from international customers, the majority of small business exporters receive orders through email, followed by their own website, over the phone, face-to-face and through online platforms or marketplaces. Whereas for importers, email was the predominant method, followed by online platform/marketplaces, over the phone and own website. Thus, of those small firms that export and import, the main digital mediums used are email, own website and online platforms/marketplaces.

Conclusion

Overall, the UK's vibrant small and medium-sized business community is trading with a variety of regions and markets to grow their business and serve a wider customer base: this includes those established markets like Germany, France and the United States to emerging markets, such as China and India.

Small businesses are also harnessing a variety of digital technologies to provide their goods and/or services, most notably via email, own website, online marketplaces and platforms. With the technological and digital revolution continuing to disrupt international trade, it is likely that the number of UK small firms using such technologies will grow in the long-term. Moreover, in line with existing research, this chapter has highlighted that the main type of product exported continues to be tangible goods, as opposed to services and intangibles.

SMALL FIRMS & ONLINE PLATFORMS

Introduction

Digitalisation is changing the way small firms are offering goods and services internationally. As shown in the previous chapter, one particular digital medium used by small businesses to import and export goods and services is online platforms and marketplaces. While this digital medium brings a range of benefits and acts as a gateway to internationalise, it also gives rise to new policy and regulatory challenges, especially for those small firms whose business models rely heavily upon them.

Definition of Online Platforms

There is no consensus as to what constitutes an online platform. However, in general, they are two-sided or multi-sided markets where users are brought together by a platform operator in order to facilitate an interaction, such as a commercial transaction.¹⁶ In the context of digital markets, depending on a platform's business model, users can be buyers of products or services, sellers, advertisers, or even software developers. For instance, a bed & breakfast in Edinburgh may advertise to consumers through hotel booking sites, whereas a small toy manufacturer may sell their products direct to consumer through online marketplaces.

While there may not be a consensus, many online platforms share the following characteristics:¹⁷

- capacity to facilitate, and extract value, from direct interactions or transactions between users;
- ability to collect, use and process a large amount of personal and non-personal data in order to optimize, inter alia, the service and experience of each user;
- capacity to build networks where any additional user will enhance the experience of all existing users – so-called “network effects”;
- ability to create and shape new markets into more efficient arrangements that bring benefits to users but may also disrupt traditional ones; and
- reliance on information technology as the means to achieve all of the above.

Breakdown of Key Platforms that Small Businesses Use

Of those current exporting/importing small firms that conduct transactions either through online platforms on a frequent or occasional basis, the majority use eBay, Amazon and Facebook as highlighted in figure six below.

Figure 6: Platforms Small Firms are Using

Source: FSB Digital Trade Survey 2019

Platforms	Percentage of small firms
eBay	42%
Amazon	42%
Facebook (including Instagram & WhatsApp)	42%
Booking.com/Expedia	22%
Google App Store	14%
Airbnb	12%
Alibaba	8%
Apple App Store	6%
Etsy	6%

¹⁶ European Commission (EC), Commission Staff Working Document Accompanying the Document Communication on Online Platforms and the Digital Single Market, May 2016, p1 <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016SC0172&from=EN>

¹⁷ European Commission Joint Research Centre (JRC), An Economic Policy Perspective on Online Platforms, May 2016, p3 <https://ec.europa.eu/jrc/sites/jrcsh/files/JRC101501.pdf>

Why Small Firms Use Platforms

Small firms use online platforms for cross-border trade because they help to promote their products in untapped markets at a reduced risk, raise brand awareness, foster consumer trust, and reduce the associated costs with internationalisation. For example, online platforms help small firms to enter markets without the exhausting and cumbersome groundwork, such as setting up their own local distribution networks, collaborating with local firms or attending trade fairs.¹⁸

Online platforms have also expanded their offering to small firms: from customer matchmaking to providing many more services for their customers including logistics, software and even hardware sales.¹⁹ For Europe in particular, they allow businesses to easily deal with country-specific legislation: from VAT and invoicing requirements to the particularities of national contract law.²⁰ Thus, they are an attractive option for small firms looking to access or test products in new markets.

Amazon is an excellent platform to sell recognised brands in reasonably large quantities, especially through FBA (Fulfilled by Amazon) as they handle all the logistics and at a more competitive price than we could manage ourselves. We have also found it an excellent way of selling products into Europe with relatively little hassle as they ship all orders tracked and deal with buyer problems in their native language.

FSB Member, Current Exporter, based in Walsall

Key Issues for Small Firms Trading via Platforms

Despite the benefits associated with this digital medium, the relationship between online platforms and their small business users are not without issue. In some cases, online platforms can undertake, or rather not undertake, action that can be harmful to the legitimate interests of small firms that trade via them.

From those exporting and importing small firms that had a negative experience when using online platforms, the top three issues identified are those concerning malicious or fake reviews, sudden changes to terms and conditions, and infringement of intellectual property rights.

Figure 7: Issues Small Firms Face

Source: FSB Digital Trade Survey 2019

Issues	Percentage of small firms
Malicious or fake reviews	21%
Sudden changes to terms and conditions	19%
Infringement of Intellectual Property	13%
De-ranking of product on search results once a platform has launched its own competing type of product or service	10%
De-listing of product or service	9%
Unilateral action that affected your trading	9%
Other, please state	5%

¹⁸ European Commission (EC), Annual Report on European SMEs 2017/2018: Special Background Document on the Internationalisation of SMEs, November 2018, p15, <https://ec.europa.eu/docsroom/documents/32601/attachments/4/translations/en/renditions/native>

¹⁹ International Trade Centre, SME Competitiveness Outlook 2018: Business Ecosystems for the Digital Age, September 2018, p17, <http://www.intracen.org/publication/smeco2018/>

²⁰ European Centre for International Political Economy (ECIPE), Online Platforms, Economic Integration and Europe's Rent-Seeking Society, 2018, p1 https://ecipe.org/wp-content/uploads/2018/10/ECL18_PolicyBrief_Competition_9_2018_LY04.pdf

Even as a model seller in accordance with that platform's community guidelines, we have found our account erroneously suspended during one of our most important selling periods. We invested a lot of time and capital in advertising and securing a good product listing and this all went to waste. Whilst the platform later rectified this error, we received no apology, no explanation as to why the account was suspended, or compensation for the 2,000 units of sales we lost!

FSB Member, Current Exporter, based in London

In the context of dealing with refunds or returns of the products we sell to customers the platform has complete control over the decision-making process. Even if the customer does not return the item, the platform will reimburse the customer via your PayPal account. When I complained to the platform, my listings dropped in the search rankings, resulting in no sales for five months. Only after I threatened to sue the platform did my sales suddenly pick up.

FSB Member, Current Exporter, based in Lincolnshire

However, it is important to note that anecdotal evidence suggests that even where small firms have had a negative experience with an online platform, they will continue to use that platform regardless, as they are more reliant upon them for international trade due to the benefits they offer. As a result, further research may be needed, after the UK implements the Platform to Business Regulation,²¹ which tackles the majority of the issues listed, as to whether platforms have a special responsibility not to allow its conduct to impair or negatively affect its users given their role in international trade.

²¹ European Commission, Regulation (EU) 2019/1150 of the European Parliament and of the Council of 20 June 2019 on promoting fairness and transparency for business users of online intermediation services (Text with EEA relevance), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32019R1150>

Conclusion

Online platforms are offering an alternative and viable route for exporting and importing small firms across a range of markets. The existing service offering available to small firms, such as matchmaking, warehousing and fulfilment, payment security, as well as assistance with country specific legislation, is reducing the associated costs of internationalisation in comparison to the more traditional and direct approach to trade. However, as noted above, trading via online platforms is not without issue, with small firms highlighting problems with fake and malicious reviews, changes to terms and conditions, and in some cases infringement of intellectual property by other third-party sellers.

As with any business-to-business relationship there are friction points, but these could be overcome with the implementation of the Platform to Business Regulation, or similar measures at the national level. Moreover, discussions with affected small firms reveal that they will continue to use these platforms regardless due to the benefits accrued under the different service offerings. Therefore, it will be important to consider any knock-on effects or how the ability of a small firm to use a platform may be hindered or effected by regulation focused on platforms moving forward.

USE OF DATA IN INTERNATIONAL TRADE

Introduction

Data plays a central role in the business models of the vast majority of UK small businesses and has become a key commodity for the modern economy and the services sector. For small businesses, data facilitates the conduct of basic and important business operations, such as taking and making payments, and is used to enhance the competitiveness of smaller businesses by, for example, helping the market orientation of business activity.²²

Figure 8: Small businesses' reasons for dealing with data

Source: Data Ready, FSB, 2018

Reason	
Payment(s) from customers	74%
Pay suppliers	68%
Employee records and PAYE	63%
On-going customer/ supplier interaction	58%
Market the business, products or services	54%
Follow-up on initial interactions/ previous sales	44%
Legal requirements (exc. employee records/PAYE)	34%
Customer/supplier feedback	33%
Due diligence	33%
Complaints/ refunds	32%
Better understand customers	32%
Understand business competitors	14%
Other	7%
Don't know	1%

Market orientation is particularly key to business performance, as it requires intelligence gathering, intelligence dissemination and responsiveness. These necessitate the collection, analysis, manipulation and sharing of many kinds of data – both personal and non-personal. This helps other drivers of business performance for small firms, such as technological innovation and relational capital.²³

²² Federation of Small Businesses (FSB), Data Ready, Mitigating the Impact of Data Protection Regulation on Small Business, February 2018, p10, <https://www.fsb.org.uk/docs/default-source/fsb-org-uk/data-protection-report-final50cf45bd4fa86562a286ff0000dc48fe.pdf?sfvrsn=0>

²³ Ibid.

Use of Third-Party Services that Deal with Data

From those small firms that interact with third parties that deal with data for domestic purposes, the predominant main third-party services are those relating to payments and accounting, followed by cloud computing.

Figure 9: Third Parties that Small Firms Interact with

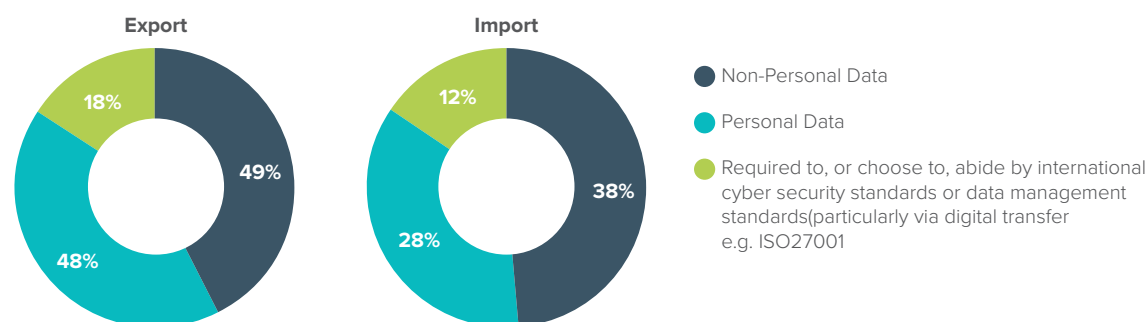
Source: Data Ready, FSB, 2018

Third parties	Percentage of small firms
Electronic Payment Services	47%
External Accountancy Services	43%
Cloud Computing Services	32%
Webmail	29%
Outsourced Payroll/Human Resources	24%
External Website/Technology Manager	19%
E-Commerce Platforms/Marketplaces	18%

Type of Data they Use for International Trade

Figure 10: Type of Data Small Firms Use for International Trade

Source: FSB Digital Trade Survey 2019

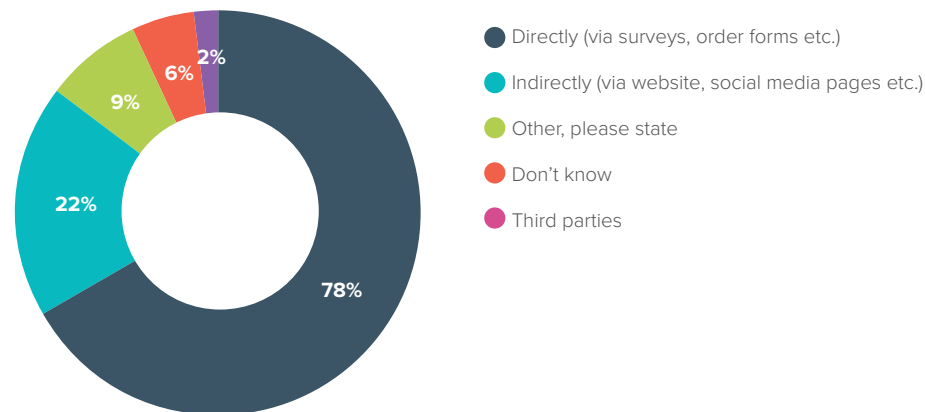


In terms of the type of data those small firms use when providing goods and/or services to customers internationally, both importing and exporting small firms indicated that they used personal and non-personal data, with exporters registering a higher use of personal data in comparison to importers.

How Small Firms Collect Data from International Customers²⁴

Figure 11

Source: FSB Digital Trade Survey 2019



Turning to how current small business exporters collect data, our research suggests that small firms overwhelmingly obtain data through asking customers directly in accordance with data protection legislation and best practice in data management. Whereas only two per cent collect data by purchasing this information from third parties.

International Data Transfers

Currently, if UK businesses send personal data to someone else who is outside the European Economic Area (EEA), they are subject to the rules on international transfers for personal data contained in the General Data Protection Regulation (GDPR).²⁵ The GDPR restricts transfer of personal data unless the rights of the individuals in respect of their personal data is protected²⁶ in another way, or one of a limited number of exceptions applies.²⁷

One particular method that small firms can use to transfer data outside the EEA in accordance with the GDPR is by using standard data protection clauses, known as standard model contractual clauses. These clauses are contractual obligations on the data exporter and the data importer, and rights for the individuals whose personal data is transferred.²⁸ Individuals can directly enforce those rights against the data importer and the data exporter.

According to our research, only a small proportion of small businesses are aware of standard model contractual clauses as a legal means to transfer data internationally. Therefore, this suggests that small firms are reliant upon the adequacy decisions that the European Union has struck with other countries²⁹ and/or the current European data protection framework, which allows the free flow of personal and non-personal data across the European Union (subject to certain conditions). Seventeen per cent of small business exporters also indicated that they use international cybersecurity standards and recognised data management standards as a means to protect data when trading internationally.

²⁴ Article 4(f) General Data Protection Regulation, April 2017, <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1528874672298&uri=CELEX:02016R0679-20160504>

²⁵ Article 44, General Data Protection Regulation, April 2016, <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1528874672298&uri=CELEX:02016R0679-20160504>

²⁶ Article 45, General Data Protection Regulation, April 2016, <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1528874672298&uri=CELEX:02016R0679-20160504>

²⁷ Article 46, General Data Protection Regulation, April 2016, <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1528874672298&uri=CELEX:02016R0679-20160504>

²⁸ Information Commissioners Office, Guide to the General Data Protection Regulation on International Transfers, <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/international-transfers/>

²⁹ European Commission, Adequacy Decisions, https://ec.europa.eu/info/law/law-topic/data-protection/international-dimension-data-protection/adequacy-decisions_en

Conclusion

Data is playing a central role in the business models of UK small businesses and is being increasingly used for their international trade transactions, with both exporters and importers using a combination of personal and non-personal data. Moreover, small firms are collecting data by asking international customers directly in accordance with the GDPR and best practice in data management.

However, as noted above, small firms are generally not aware of standard model contractual clauses as a means for transferring data cross-border. Instead, they are relying upon their adherence with the GDPR in order to transfer data within the EU single market, as well as the current adequacy decisions that the EU has struck with third countries, such as Switzerland, Japan, Israel, Canada (commercial organisations) and the United States (EU-US privacy shield).

Therefore, the best way to ensure that small firms can continue to send and receive data cross-border is to secure an adequacy decision with the EU post-Brexit and rollover existing EU adequacy decisions. Moreover, the Government should look to build upon this by undertaking adequacy assessments and striking decisions with other key export markets, followed by formalising the free flow of data in future free trade agreements.

BARRIERS & ISSUES AFFECTING PARTICIPATION IN DIGITAL TRADE

Introduction

Several barriers or issues, individually or combined, may affect participation in digital trade. These include those traditional trade barriers that affect those small firms that export regardless of whether their order or purchase comes via a digital medium, such as rules of origin, sanitary and phytosanitary measures, foreign exchange, to those specifically impacting digital trade, like connectivity and the use of data.

In respect of the global economy, barriers to digitally enabled services, which form the backbone of digital trade transactions, are growing. The Digital Trade Estimates Project,³⁰ a database that contains all policy measures imposed by 64 countries affecting digital trade, highlights more than 1,500 different policy measures that have the potential to result in a restriction on the digital trade of goods, services, investment, people and data.

Trade Barriers Impacting Cross-Border Digital Trade

Depending on how, what and the extent to which a small business trades overseas, the types of barriers they may encounter can vary dramatically. Trade barriers can be sector or industry specific, and the impact of them can be more restrictive or widespread in particular sectors. As such, individual barriers and their impact on small businesses can be difficult to identify, distinguish and quantify. However, we have attempted to flesh out those barriers specific to those small business exporters engaged in digital trade, as well as those more traditional trade issues which may have new consequences.

Figure 12: Barriers to Digital Trade – Services & Goods

Source: FSB Digital Trade Survey 2019

	All	Tangible Goods	Intangible goods	Services
I haven't encountered any barriers	46%	45%	28%	32%
Delivery problems	28%	38%	20%	18%
Unclear or unequal application of local regulations or taxation policies	23%	20%	42%	34%
Difficulties receiving electronic payments from international customers	19%	19%	24%	24%
Weak protection or infringement of your intellectual property rights, e.g. patents, copyright	12%	12%	24%	18%
Differing data protection requirements	10%	9%	22%	23%
Lack of recognition of electronic contracts or electronic signatures	5%	5%	12%	15%
Differing cybersecurity standards for products or services	5%	5%	15%	9%
Requirements to store your data on local services in the respective country	5%	2%	25%	16%

³⁰ European Centre for International Political Economy (ECIPE), Digital Trade Estimates Project, 2018, <https://ecipe.org/dte/>

In accordance with figure twelve, of all those small firms that export the main barriers are those associated with delivery, issues relating to unclear or unequal application of taxation and local regulations, difficulties receiving electronic payments from international customers, weak protection or infringement of intellectual property and differing data protection requirements.

Problems with Delivery

Problems with delivery was classified as the top barrier for all current small business exporters. This is not unexpected, as tangible goods are the main exported or imported type of product for UK small firms. Problems with delivery can range from logistic challenges, such as pricing, traceability, customs duties, taxes, and returns,³¹ to understanding documentation requirements, having shipments stopped at customs, and goods disappearing. As trends show, consumers have increasing expectations in terms of delivery speed year on year³² and with high-quality delivery services being a pre-requisite for successful e-commerce,³³ this could be a major bottleneck and competitive issue for small firms both now and in the future.

I have had three packages intended for one export destination being mistakenly sent to three different countries, goods held at customs, large pieces of art being lost by the courier and real problems tracking each package. Moreover, the treatment of packages by certain couriers is jaw dropping. I have seen packages falling six feet high from a truck, damaged parcels, and some that looked like they had been run over! The costs of an 'all in' insurance policy for a piece of art is out of reach for many small art galleries on a tight profit margin, so I have to hope for the best and wrap each package as if it was ready to withstand an attack.

FSB Member, Current Exporter & Importer, based in Sheffield

Electronic Payments

Following issues relating to local tax and regulation, electronic payments featured as a moderate barrier for those small firms engaged in international trade. Existing research undertaken by the International Trade Centre, identified problems with electronic payment as a significant barrier for those micro-small and medium-enterprises engaged in digital trade.³⁴ Problems can range from requirements to use a specific payment method, policy prohibitions on the use of credit cards for online transactions, requirements to use banks only for settling international payments, obligations to carry out transactions in the local currency, foreign exchange controls, and preventions on the use of credit or debit cards outside of a country.³⁵ Moreover, consumers may be reluctant to use payment solutions they are not familiar with, as those providers may not offer services in certain markets.³⁶

31 World Economic Forum (WEF), Delivering Goods E-Commerce Logistics Transformation, October 2018, p11, http://www3.weforum.org/docs/WEF_Delivering_Goods_E-commerce_logistics_transformation_report_2018.pdf

32 International Postal Corporation, Cross-Border Shopper Survey 2018, January 2019, p1, <https://www.ipc.be/-/media/documents/public/markets/2019/ipc-cross-border-e-commerce-shopper-survey2018.pdf>

33 European Commission, Development of Cross-Border E-Commerce through Parcel Delivery, February 2019, p13, <https://publications.europa.eu/en/publication-detail/-/publication/3fd47ff1-574d-11e9-a8ed-01aa75ed71a1/language-en>

34 International Trade Centre, New Pathway to E-Commerce: A Global MSME Competitiveness Survey, September 2017, p18, [http://www.intracen.org/uploadedFiles/intracenorg/Content/Publications/New%20Pathways%20to%20E-commerce_Low%20res\(2\).pdf](http://www.intracen.org/uploadedFiles/intracenorg/Content/Publications/New%20Pathways%20to%20E-commerce_Low%20res(2).pdf)

35 World Economic Forum, Addressing E-Payment Challenges in Global E-Commerce, May 2018, p6, http://www3.weforum.org/docs/WEF_Addressing_E-Payment_Challenges_in_Global_E-Commerce_clean.pdf

36 International Trade Centre, New Pathway to E-Commerce: A Global MSME Competitiveness Survey, September 2017, p18, [http://www.intracen.org/uploadedFiles/intracenorg/Content/Publications/New%20Pathways%20to%20E-commerce_Low%20res\(2\).pdf](http://www.intracen.org/uploadedFiles/intracenorg/Content/Publications/New%20Pathways%20to%20E-commerce_Low%20res(2).pdf)

Receiving electronic payments from international customers is a complete minefield in terms of how and the ways to do it. As the transfer fees by traditional banks are too high and not viable for our business, we have to look for alternative providers, such as TransferWise and PayPal. However, the problem is that in some markets these methods are unavailable. This means I have to take time out of running my business researching different payment methods and even taking recommendations directly from the customer!

FSB Member, Current Exporter & Importer, based in Sheffield

Intellectual Property

Figure twelve above reinforces existing FSB research³⁷ by showing that infringement of intellectual property rights continues to be a major concern for small businesses. Domestically, the most common IP protection that small businesses applied in their business was confidentiality (including non-disclosure agreement) (22%), and copyright (15%). Only a few apply for trademarks (11%) and design registration (7%). The least likely type of protection is patents (5%). From those that own intellectual property rights, one in three are heavily reliant upon it, for up to seventy-five per cent of their turnover, meaning infringements can be incredibly damaging and also impact participation in cross-border digital trade.

As an online micro-business, we encounter real problems with intellectual property infringement. We've seen our item go viral on global online marketplaces, in particular in Asia, which has impacted our sales. Whilst we have a registered copyright in the UK for our problem, getting this product de-listed by these marketplaces or having the ability to enforce our IPR right is proving to be impossible.

FSB Member, Current Exporter, based in Wiltshire

Data Protection Legislation

Trust plays an important role underpinning the flow and commercial use of data. It is particularly important for smaller enterprises as they tend to have more direct and personal relationships with a smaller range of customers and suppliers than larger businesses. In other words, they have more 'skin in the game' than larger firms do. A degree of data regulation is essential as it can help generate trust among customers and potential customers. It reassures them that personal information will not be abused or treated recklessly, thus reducing some of the risks that accrue to the generation or supply of personal data to a business. Such reassurance is likely to help maintain, and even increase, levels of demand for products and services.³⁸

However, regulation has its costs as well as benefits. The costs of data regulation can deter start-up, entry and growth among smaller firms and impact the spread and adoption by the small business community of data-based technologies which enhance productivity.³⁹

³⁷ Federation of Small Businesses (FSB), Spotlight on Innovation: How Government Can Unlock Small Business Productivity, July 2018, p12, <https://www.fsb.org.uk/docs/default-source/fsb-org-uk/innovation-report-final.pdf?sfvrsn=0>

³⁸ Federation of Small Businesses (FSB), Data Ready, Mitigating the Impact of Data Protection Regulation on Small Business, February 2018, p11, <https://www.fsb.org.uk/docs/default-source/fsb-org-uk/data-protection-report-final50cf45bd4fa86562a286ff0000dc48fe.pdf?sfvrsn=0>

³⁹ Federation of Small Businesses (FSB), Response to the Department for Digital, Culture, Media & Sport (DCMS's) Open Call for Evidence: National Data Strategy, July 2019, p4.

At present, the optimal regulatory balance has yet to be achieved for smaller businesses, with the estimated cost of the transition for smaller firms to the General Data Protection Regulation (GDPR) from the previous legal framework⁴⁰ in the UK being more than £5 billion.⁴¹ In addition to dealing with the GDPR, those small firms that are engaged in digital trade internationally also have to contend with data protection legislation of those countries where they supply goods or services.

According to UNCTAD's Global Cyberlaw Tracker, one hundred and seven countries (of which sixty-six were developing or transition economies) have put in place legislation to secure the protection of data and privacy,⁴² which can differ in accordance with application, interpretation and how they view data. For instance, in the EU, protection of data is classified as a fundamental right under the EU's Charter of Fundamental Rights.⁴³ Moreover, as identified by the WTO, many data protection laws contain significant gaps and exemptions. For instance, exemptions might apply to small businesses (in the cases of Australia and Canada) or to small datasets (in the case of Japan).⁴⁴ This can lead to interoperability issues and complexity for small firms.

Even though we have adapted our business processes and are in full compliance with the General Data Protection Regulation here in the UK, we have been confronted with additional costs for our European operations due to how other countries interpret the legislation and its requirements – meaning more lawyers and admin costs and less time spent on growing our business.

FSB Member, Current Exporter, based in London

Data Localisation

Data localisation requires companies to store and/or process any data on any device that is physically present within the borders of a specific country where that data was generated. These requirements can apply to specific sectors, such as gaming, healthcare, financial services, or a particular category of data.

As indicated in figure twelve, very few small business exporters (5%) as a whole currently view data localisation as a significant barrier to cross-border digital trade. Of those that do, they tend to be involved in those specific sectors where these requirements apply or are bound by a contractual agreement with a customer.

However, those small business exporters selling services and intangible goods report data localisation as one of the top four barriers to trade, with those selling intangible goods classifying it as the second most encountered barrier.

Data localisation measures can also have an impact on small firms indirectly. For instance, requirements to localise data drives up costs for users locally and prevents small firms from being able to access best-in-class services.

As a small family-run translation business, removing requirements to process and store data locally would bring significant and immediate benefits for us financially. Current requirements to store data based on location, as opposed to high data management standards, prevents us from being able to access best-in-class and cutting-edge services which are not only more competitively priced but also more appropriate for the needs of our business.

FSB Member, Current Exporter, based in Bristol

⁴⁰ Data Protection Act 1998.

⁴¹ Federation of Small Businesses (FSB), Data Ready, Mitigating the Impact of Data Protection Regulation on Small Business, February 2018, p18, <https://www.fsb.org.uk/docs/default-source/fsb-org-uk/data-protection-report-final50cf45bd4fa86562a286ff0000dc48fe.pdf?sfvrsn=0>

⁴² United Nations Conference on Trade & Development, Cyberlaw Tracker, https://unctad.org/en/Pages/DTL/STL_and ICTs/ICT4D-Legislation/eCom-Data-Protection-Laws.aspx

⁴³ Article 8, Charter of Fundamental Rights of the European Union.

⁴⁴ World Trade Organisation (WTO), World Trade Report 2018, October 2018, p138, https://www.wto.org/english/res_e/publications_e/world_trade_report18_e.pdf

Facilitation of Electronic Transactions

According to UNCTAD's Cyberlaw Tracker, one hundred and forty-five countries have adopted laws recognising the legal equivalence between paper-based and electronic forms of exchange.⁴⁵ In terms of electronic signatures, those countries that UK small firms tend to trade with take either a permissive approach (permitting the usage of electronic signatures for all types of agreements)⁴⁶ or have a two-tiered jurisdiction approach, which means digital signatures have the same status as a handwritten signature, with simple electronic signatures also deemed legal and enforceable.⁴⁷

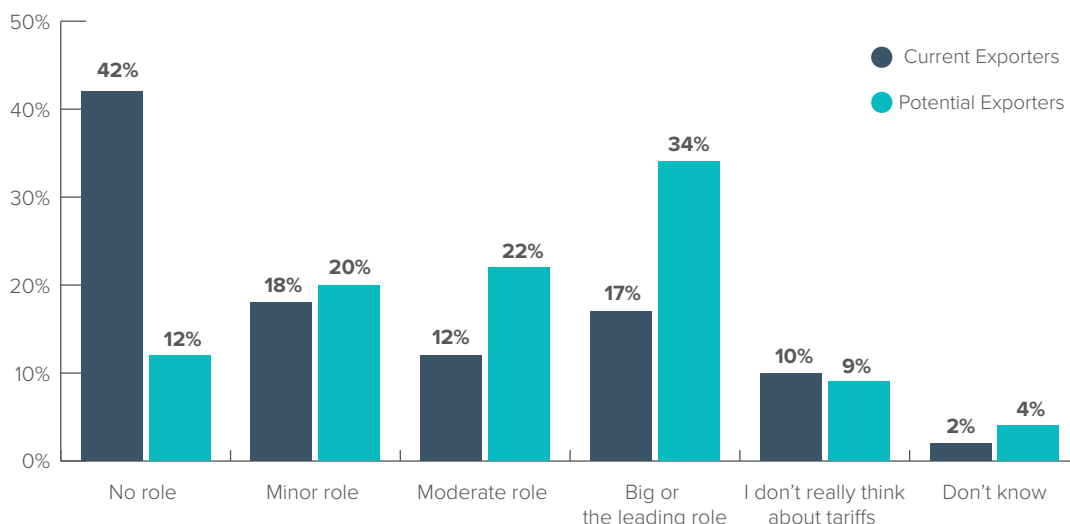
Given this, as well as the fact only around twenty per cent of small business exporters use electronic signatures and contracts, figure twelve indicates that issues pertaining to electronic contracts and signatures are not currently considered a major issue for all small firms. This may change in the future, as more transactions move online and technology evolves or the markets small firms trade with change, leading to cross-border digital activities potentially getting more complex and raising the cost of doing business in multiple markets.⁴⁸ Though it is important to note that it may be an issue for other actors in the supply chain.

Tariffs

Small businesses tend to operate on tight margins, whereby even the smallest increase (between two to four per cent) in duties or tariffs can mean their product is no longer competitive in certain markets and would deter them from exporting. Tariffs on physical goods play a role for around half (47%) of where small business exporters trade, with one in three (29%) stating that tariffs play a moderate or big role. However, potential exporters and importers anticipate tariffs will play a more significant role in where they export, with seventy-six per cent of potential exporters expecting tariffs to play a role.⁴⁹

Figure 13: The role tariffs play in where Current Exporters and Potential Exporters decide to export

Source: Keep Trade Easy, FSB, 2017



⁴⁵ United Nations Conference on Trade & Development, Cyberlaw Tracker, https://unctad.org/en/Pages/DTL/STI_and_ICTs/ICT4D-Legislation/eCom-Transactions-Laws.aspx

⁴⁶ Adobe, Global Guide to Electronic Signature Law, 2017, p4, <https://acrobat.adobe.com/content/dam/doc-cloud/en/pdfs/document-cloud-global-guide-electronic-signature-law-ue.pdf>

⁴⁷ Ibid.

⁴⁸ World Economic Forum (WEF), Making Deals in Cyberspace: What's the Problem?, October 2017, p3, http://www3.weforum.org/docs/WEF_Delivering_Goods_E-commerce_logistics_transformation_report_2018.pdf

⁴⁹ Federation of Small Businesses (FSB), Keep Trade Easy: What Small Firms Want from Brexit, March 2017, p8, https://www.fsb.org.uk/docs/default-source/fsb-org-uk/keep-trade-easy_-what-small-firms-want-from-brex-21-march-2017.pdf?sfvrsn=0

Turning to intangible goods and services, the WTO's moratorium⁵⁰ currently prevents electronic transmissions, such as computer programs and links, text, video, images, sound recordings and other products that are digitally encoded, including e-books and musical downloads, from being subject to customs duties or border controls. This means that if a customer places an order to a business through a telephone call or an email that 'transmission' from the customer is not stopped at the border or subject to a tax in the country where that business is based and vice-versa. As a result, the moratorium promotes the free flow of information essential to the expansion of the internet and electronic commerce across borders.

However, some countries such as India and South Africa have recently debated whether the moratorium remains in their economic interest, given the potential revenues that might be generated by imposing tariffs on electronic transmissions.⁵¹ A recent study suggests that the introduction of such tariffs would cause negative economic consequences in the form of higher prices and reduced consumption.⁵² Moreover, anecdotal evidence suggests that such duties would have a detrimental impact on small businesses, adding another layer of complexity and cost.

If customs duties were introduced on electronic transmissions, like 3D printing schematics or digital photos we require to make our end product, this would have significant ramifications on our existing business model. This includes the additional complexity associated with how such a system would work and the cost of the end product that we then export, including the ability to retain those best in class skilled workers based overseas.

FSB Member, Current Exporter, based in London

We have 15 employees who each receive no fewer than 200 emails daily and respond to the same amount in kind. Around 5% of these come from India. Given that our whole business relies upon receiving and returning files, as well as building and nurturing relationships with our clients at a distance, if a tax or duty were imposed on electronic transmissions we would simply have to close down our business activities in markets that imposed such measures overnight.

FSB Member, Current Exporter, based in Bristol

⁵⁰ World Trade Organisation (WTO), Declaration on Global Electronic Commerce, May 1998, https://www.wto.org/english/tratop_e/ecom_e/mindec1_e.htm

⁵¹ European Centre for International Political Economy, the Economic Losses from Ending the WTO Moratorium on Electronic Transmissions, 2019, p2 https://ecipe.org/wp-content/uploads/2019/08/ECI_19_PolicyBrief_3_2019_LY04.pdf

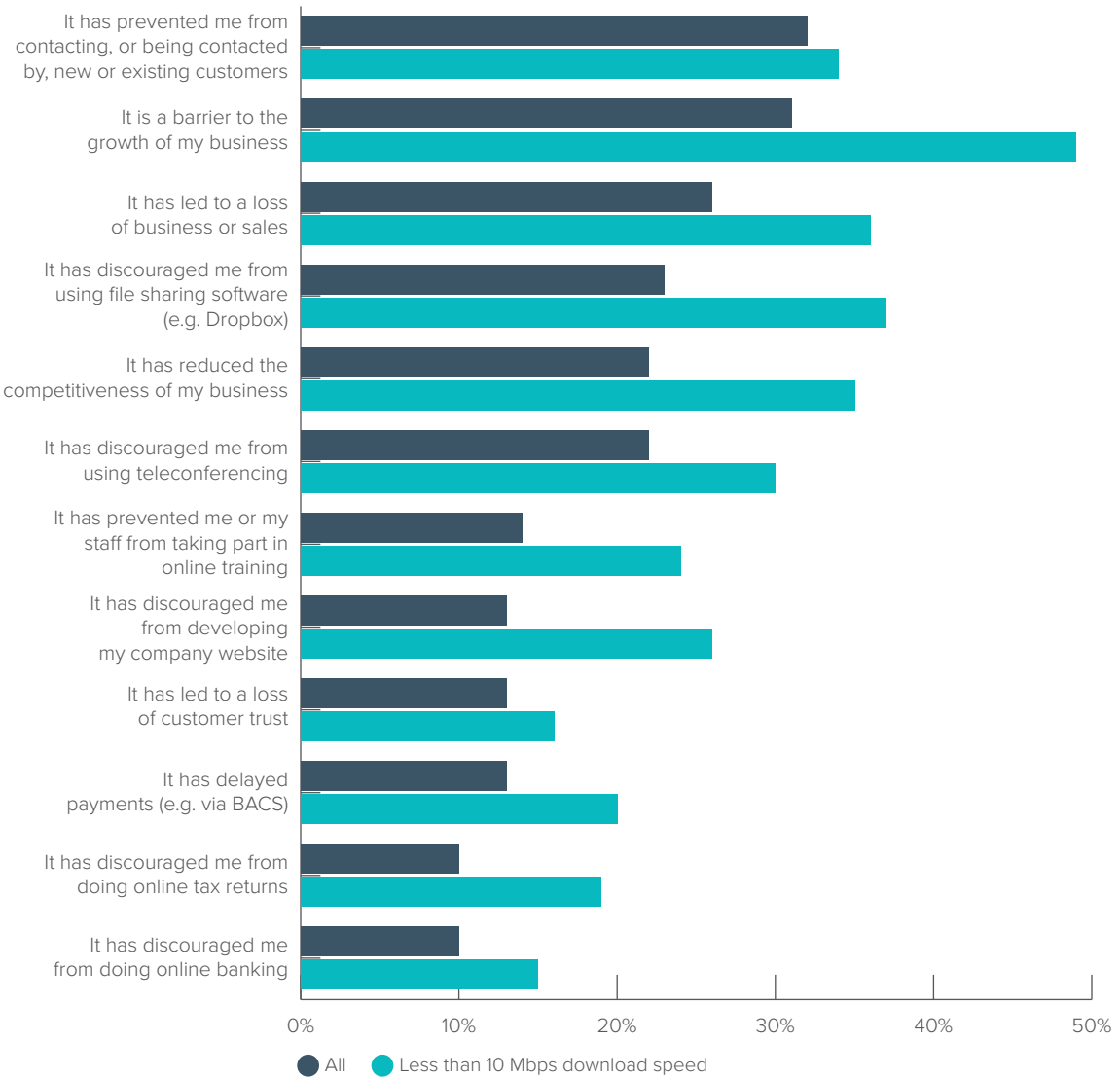
⁵² Ibid.

Connectivity

To be able to capitalise on the opportunities that digital trade presents for small firms internationally they require reliable domestic digital infrastructure. This starts with issues regarding internet access, including mobile, the cost of this access, and most importantly the speed and reliability of the connection.

Recent FSB research has found that poor broadband and mobile coverage is very damaging to small businesses and is hampering their ability to operate day-to-day.⁵³ Thirty-two per cent of small businesses reported that poor coverage has prevented them from contacting, or being contacted by, new or existing customers. Twenty-six per cent have also stated that poor cover has led to a loss of business or sales.⁵⁴

Figure 14: Impact of poor broadband and mobile coverage on affected small businesses
Source: Lost Connection, FSB, 2019



The impact of poor or unreliable connectivity on small firms is only amplified for those engaging in cross-border digital trade, as they are competing with businesses located in countries where internet reliability, speed and coverage is far more advanced such as Singapore and Sweden.

⁵³ Federation of Small Businesses (FSB), Lost Connection: How Poor Broadband & Mobile Connectivity Hinders Small Firms, October 2019, p37, https://www.fsb.org.uk/docs/default-source/fsb-org-uk/fsb-broadband-mobile-connectivity-report-final.pdf?sfvrsn=b1ddf721_0
⁵⁴ Ibid.

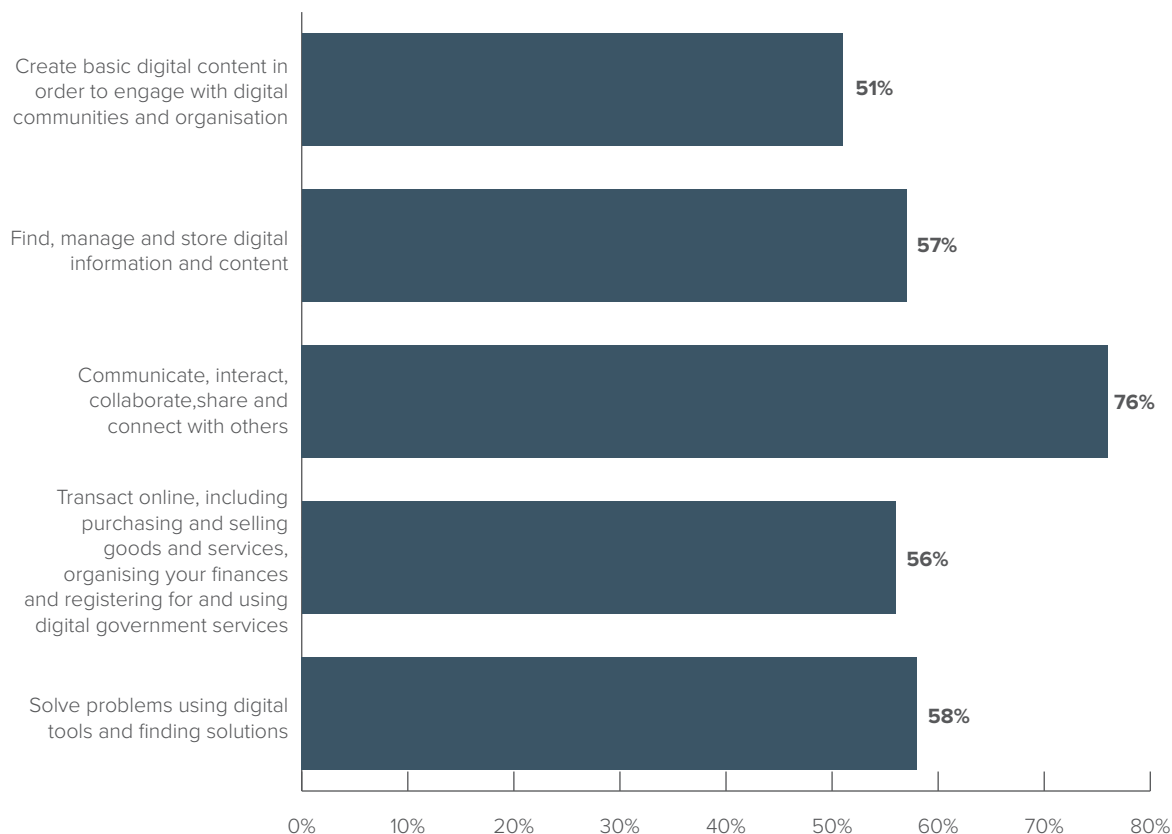
Digital Skills

Having skilled and experienced staff – and being skilled and experienced oneself – is crucial to running a successful, resilient and agile small business. Aside from the more tangible benefits of learning new skills, such as the creation of a new product or company website, training improves business competitiveness, efficiency, and longer-term effectiveness. With digital technology developing rapidly, businesses of all sizes are feeling the impact.⁵⁵

Despite increasing augmentation of digital technology and ways of working into our everyday lives, the overall digital capability of small firms still requires improvement. For example, around a quarter of business owners in England stated that they lack confidence in their basic digital skills and more than a fifth believe a lack of basic digital skills among their staff is holding them back from increasing their digital and online presence.⁵⁶

Figure 15: Areas of basic digital skills business owners consider most important to future growth

Source: Learning the Ropes, FSB, 2017



As figure fifteen shows, over fifty per cent of small business owners consider those skills linked with digital trade, such as transacting online and creating digital content, important to future business growth. If small firms do not have access to these requisite skills, their ability to engage and utilise the opportunity presented by exporting and digital trade will be limited.

⁵⁵ Ibid.

⁵⁶ Federation of Small Businesses (FSB), Learning the Ropes: Skills & Training in Small Business, December 2017, p8, <https://www.fsb.org.uk/docs/default-source/fsb-org-uk/skills-and-training-report.pdf?sfvrsn=0>

Adoption of New Technologies

Linked to the issue of poor connectivity is the adoption rate for digital technologies, especially amongst smaller businesses and sole traders. For instance, FSB research shows that there is clearly scope for improvement in the adoption of digital technologies.⁵⁷ While 32 per cent of all smaller businesses think that AI would provide value to their business, fewer than half of smaller businesses in the UK have used cloud services (40%), online data storage or backup (37%), file transfer technology (33%), and (29%) have adopted bespoke software or applications.⁵⁸ This is important as the penetration of these technologies in small firms is essential for supporting new to firm innovation, as well as engaging in international digital trade.

Conclusion

Small businesses operating within the global digital trade environment have to contend with a variety of different barriers to trade: from delivery problems and issues with electronic payments to duplicative data protection requirements. These barriers touch upon each stage of an electronic transaction and wider e-commerce supply chain. Thus, the Government should look to address these issues through free trade agreements and where appropriate through the relevant international fora to reduce the costs and problems small firms face.

Nevertheless, it cannot be stressed that the necessary pre-conditions for small firms to engage in cross-border digital trade must be met to enable their participation. This means tackling problems at the domestic level by ensuring businesses have access to a fast-reliable broadband and mobile connection, a greater adoption rate of digital technology, and the necessary digital skills and access to the skilled staff required to run a business engaged in this space. Only if these conditions are met can small firms take full advantage of the opportunities presented by international digital trade and exporting.

⁵⁷ Federation of Small Businesses (FSB), *Spotlight on Innovation: How Government Can Unlock Small Business Productivity*, July 2018, p11, <https://www.fsb.org.uk/docs/default-source/fsb-org-uk/innovation-report-final.pdf?sfvrsn=0>

⁵⁸ Ibid.

TOOLS TO REDUCE TRADE BARRIERS FOR SMALL FIRMS

Introduction

Digital trade has become a key pillar of the global economy and digitalisation is creating new trade opportunities for firms to sell more products to more markets, resulting in countries diversifying their export baskets.⁵⁹ However, the transnational nature of the internet and the different approaches taken by countries to regulate digital trade has resulted in small firms operating under a patchwork of rules. It has also led to a number of barriers and challenges for small firms to contend with, as identified in the previous chapter. This chapter will examine a number of ways where countries have attempted to reduce trade frictions and facilitate trade.

Free Trade Agreements (FTAs)

Bi-lateral, tri-lateral, and regional free trade agreements are being used as a tool to regulate and, in some cases, harmonise the different aspects of digital trade. An issue paper⁶⁰ by the Asia Business Trade Association (ABTA) highlights some of the key digital trade provisions that have been included in free trade agreements by countries across the globe.⁶¹

- Elimination of customs duties on digital products and/or electronic transmissions
- Non-discrimination against digital products
- Electronic authentication and electronic signatures
- Paperless trading
- Domestic electronic transactions framework
- Online consumer protection
- Personal information protection
- Measures against unsolicited commercial electronic communications
- Cybersecurity
- Cross-border transfer of information
- Prohibition of data localisation
- Cross-border transfer of information by electronic means and prohibition of data localisation for financial services
- Liability of intermediary service providers
- Non-disclosure of software source code and related algorithms
- Open government data
- Cooperation

It is important to recognise that some trade agreements may only cover a few aspects of digital trade, such as elimination of customs duties on digital products and cooperation, whereas others such as the United States-Mexico-Canada (USMCA) and the Comprehensive and Progressive Agreement for a Transpacific Partnership (CPTPP) covers the majority of the provisions listed and are considered to be the most advanced.

Moreover, at the time of writing, New Zealand, Chile and Singapore have started negotiations for a Digital Economy Economic Partnership Agreement. This negotiation will examine rules, principles, cooperation and other approaches for digital trade and the digital economy, possibly building on existing trade agreement commitments under the CPTPP and tackling emerging issues like artificial intelligence, electronic invoicing and cross-border data flows.

59 Organisation for Economic Co-operation and Development (OECD), Trade in the Digital Era, March 2019, p1, <https://www.oecd.org/going-digital/trade-in-the-digital-era.pdf>

60 Asian Business Trade Association (ABTA), FTA Digital Comparison, June 2019, <https://static1.squarespace.com/static/5393d501e4b0643446abd228/t/5d2fde566a7f1e00012acd4c/1563418198827/ABTA+FTA+Digital+Provisions.pdf>

61 United States-Mexico-Canada Agreement, Comprehensive & Progressive Agreement for Trans-Pacific Partnership Australia-Hong Kong FTA, Sri-Lanka-Singapore FTA, Korea-United States FTA, EU-Japan Economic Partnership Agreement, and EU-Singapore FTA.

Supranational Framework

The EU has regulated the different aspects of digital trade and has rigorously pursued the creation of a digital single market over the past five years, most notably through its digital single market strategy.⁶² This strategy is made up of three pillars:

1. improving access to digital goods and services, by removing barriers to cross-border e-commerce;
2. an environment where digital networks and services can prosper, through providing high-speed, secure and trustworthy infrastructures and services supported by regulatory conditions; and
3. digital as a driver for growth, for example, by enhancing digital skills, which are essential for an inclusive digital society.⁶³

Some of the regulations adopted are similar to, or go further than, digital trade provisions contained in free trade agreements. Examples include:

- The Free Flow of Non-Personal Data Regulation – Prohibiting data localisation
- Open Data and Public Sector Information Directive – Sharing government data
- The General Data Protection Regulation – Protection of personal data
- The E-Commerce Directive – Liability of intermediary service providers
- The E-Privacy Directive – Measures against unsolicited commercial electronic communications
- eIDAS Regulation – Governing electronic identification and trust services for electronic transactions
- Consumer Rights Directive, Sales of Goods Directive & Digital Content Directive – Online consumer protection
- E-customs Decision – Paperless trading
- NIS Directive – Security of network and information systems
- Cybersecurity Act – EU-wide cybersecurity certification framework for digital products, services and processes
- The Platform to Business Regulation – Regulating the relationship between platforms and business users
- Copyright Directive – Regulating intellectual property

Multilateral Framework

There is no multilateral agreement on digital trade at the World Trade Organisation (WTO), but certain aspects are covered in other WTO agreements. For example, the General Agreement on Trade in Services⁶⁴ contains explicit commitments for those services, such as telecommunications and financial services, that underpin digital trade, as well as obligations on non-discrimination and transparency that cover all service sectors via a ‘positive list’. Whereas the Declaration on Global Electronic Commerce⁶⁵ established a temporary moratorium on customs duties on electronic transmissions,⁶⁶ and the Information Technology Agreement (ITA) regulates tariffs on the goods that power and utilize the internet.⁶⁷ The Trade Facilitation Agreement⁶⁸ also lays down measures for effective cooperation between customs and other appropriate authorities on trade facilitation and customs compliance issues.

⁶² European Commission, A Digital Single Market for Europe Strategy, May 2015, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52015DC0192&from=EN>

⁶³ Ibid p16.

⁶⁴ World Trade Organisation, the General Agreement on Trade in Services (GATS), January 1995, https://www.wto.org/english/docs_e/legal_e/26-gats.pdf

⁶⁵ World Trade Organisation (WTO), Declaration on Global Electronic Commerce, May 1998, https://www.wto.org/english/tratop_e/ecom_e/mindec1_e.htm

⁶⁶ Ibid.

⁶⁷ World Trade Organisation (WTO), the Information Technology Agreement, December 1996, https://www.wto.org/english/tratop_e/inftec_e/inftec_e.htm

⁶⁸ World Trade Organisation (WTO), Trade Facilitation Agreement, February 2017, https://www.wto.org/english/docs_e/legal_e/tfa-nov14_e.htm

The other major agreement covering aspects of digital trade at WTO level is the Agreement on Trade-Related Aspects on Intellectual Property Rights (TRIPS),⁶⁹ which covers the protection and enforcement of intellectual property (copyright, trademarks, patents, trade secrets and industrial designs), contains specific provisions on computer programs and compilations of data.⁷⁰ Though, it is important to emphasise that the World Intellectual Property Organisation (WIPO), with its 'internet treaties',⁷¹ acts as the primary forum for solving intellectual property disputes outside the WTO.

International Forums

Other mechanisms that countries use to promote alignment and best practice for tackling those challenges associated with digital trade are international forums. International forums can be useful tools to engage in regulatory cooperation and reduce trade frictions, which are not suitable for a formal trade agreement to deal with, or where countries may in the first instance be reluctant to commit to certain terms. Examples of international forums include: (i) the Commonwealth's Digital Connectivity Cluster, (ii) the G20's Digital Economic Taskforce, (iii) the World Economic Forum (WEF); (iv) the United Nations (UN), (v) the Asian Pacific Economic Cooperation Forum (APEC), and (vi) the Organisation for Economic Co-operation and Development (OECD). Though this list is not exhaustive, as countries or regions may engage on specific digital issues and with set counterparts on an ad-hoc basis, such as the UK-US SME Dialogue.

Global Rules – An Opportunity for UK Small Firms

As noted above, there is no multilateral agreement that regulates digital trade. Businesses therefore have to rely upon a patchwork of rules, such as those agreed by some countries in their bilateral or regional trade agreements. To remedy this, 76 (now 78) members of the WTO signed a commitment to start negotiations for a plurilateral agreement to put in place global rules on electronic commerce.⁷² In total, countries supporting the initiative account for 90% of global trade, which includes the United Kingdom.

The negotiations cover a wide-range of thematic areas, such as the facilitation of electronic transactions, customs duties on electronic transmissions, the free flow of data, access and non-discrimination, business trust, transparency, and consumer protection. A key objective of the negotiations is to establish a multilateral legal framework that consumers and businesses could rely on to make it easier and safer to buy, sell and do business online.⁷³

Conclusion

Countries are using different methods to reduce trade frictions for small firms engaged in digital trade. In the absence of global rules, countries are resorting to other means, such as concluding bi-lateral and regional trade agreements to deal with cross-border trade issues, supranational frameworks to harmonise within trading blocs, and international forums to cooperate and share best practice to lessen the impact of the different approaches and to promote compatibility. Thus, in order to deliver for small firms, it is essential that the Government and policymakers work towards a global solution in the long-term, alongside regional and bi-lateral efforts with key export destinations for UK small business, including through international forums, underpinned by a proscriptive, as opposed to prescriptive, approach and one that encourages the development of mechanisms to promote compatibility.

69 World Trade Organisation (WTO), Trade-Related Aspects of Intellectual Property, January 1995, https://www.wto.org/english/docs_e/legal_e/27-trips_01_e.htm
70 Ibid Article 10.

71 World Intellectual Property Organisation (WIPO), Copyright Treaty and Performances & Phonogram Treaty

72 World Trade Organisation (WTO), Joint Statement Initiative on Electronic Commerce, January 2019, https://trade.ec.europa.eu/doclib/docs/2019/january/tradoc_157643.pdf

73 <http://trade.ec.europa.eu/doclib/press/index.cfm?id=1974>

These efforts, regardless of what level, should not only seek to address those barriers that small firms face, highlighted in the previous chapter, but also look at and build upon existing best practice. This means looking to existing free trade agreements, like CPTPP, USMCA, EU-Japan, and analysing whether their terms deliver for small firms: from the protection of intellectual property, banning customs duties on electronic transmissions, to the free flow of data.

Moreover, the Government should examine the different international forums and their potential for improving compatibility of regulation and working with partners to tackle issues that may not be appropriate for free trade agreements, like delivery problems.

CONCLUSION

Small firms are embracing the digital trade revolution and harnessing a variety of different digital mediums to provide their goods and services across the globe. This ranges from those firms using email, their own website, to those using online platforms to engage with consumers. Moreover, they are increasingly using data for the purposes of international trade.

This report has shown that digital mediums, like online platforms, are offering a real and tangible benefit for small firms engaged in international trade. This includes fostering consumer trust, reducing the costs associated with internationalisation, and providing small firms with the logistical support and services that they would be unable to obtain on their own, especially at the same price.

However, small firms trading through these digital mediums do experience issues, ranging from fake and malicious reviews, unilateral changes to terms and conditions and problems relating to dispute resolution. Thus, there is a clear trade-off between the added value and the issues they encounter. Anecdotal evidence suggests that those members that have experienced such issues continue to use these platforms regardless, as they are more reliant upon them for international trade due to the benefits they offer.

The transnational nature of the internet and different approaches to digital trade has created a multi-layered and patchwork approach to digital trade, leading to the imposition of new trade barriers for small firms, especially in respect to data protection and protection of intellectual property. Moreover, other challenges such as problems with delivery and electronic payments undermine the competitiveness of small firms in a marketplace which is built upon fast, reliable, and seamless customer experience.

The current negotiations within the framework of the Joint Statement Initiative on Electronic Commerce at the WTO offers a viable vehicle to reduce the impact and incompatibility of digital trade barriers for small firms operating cross-border, as well as through free trade agreements with those key markets for UK small firms. This is subject to negotiators prioritising and delivering commitments that address the needs of small business as highlighted across this report.

Nevertheless, it cannot be stressed enough that the pre-conditions for small firms to engage in the cross-border digital economy must be met to enable their participation. This means having access to a fast, reliable broadband and mobile connection, a high adoption rate of digital technology, and the necessary digital skills and access to skilled staff required to run a business engaged in this space.

METHODOLOGY

The survey was sent to all FSB members across the UK. Individuals were invited to participate in the survey via email and social media channels. The survey was administered by the research agency Verve and was in the field from 20th August to 3rd September 2019. The survey was completed by a total of 1,062 small businesses.

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