Wednesday, October 23, 2019
3:30 PM – 4:45 PM

Workshop 6

Do Not Pass Go, Do Not Click-and-Collect $200
How Omni-Channel/Internet Sales Are Changing the Retail Real Estate
Industry and Why Failing to Keep Up May Cost You Lots of Real (Not Just
Monopoly) Money

Kenneth S. Lamy, CRRP, CRX   **Nadav Ravid**
The Lamy Group, LTD.   Ravid Law Group
Mandeville, LA   Los Angeles, CA

INTRODUCTIONS

OUR GOALS

❖Provide each of you with one or two ideas to use in your company

❖ Create awareness of retailer / landlord issues, and how sales and rent are inter-related

❖ Help you understand the impact both financial and non- financial issues have on retail assets / value / portfolios

Introductions:

❖ Who are Ken and Nadav?

❖ Why do we care about this issue?

The Answer, up front:

- The velocity of change in retail and in retail CRE is like never before

- Tenant experimentation will keep increasing and continuing

- We are years away from any agreed-upon standards for accounting & reporting

Gross Sales Definition

A. Landlord Perspective: Every sale that has any connection to the physical store.

B. Tenant Perspective: Not all sales are equal. Some sales through omni-channel should be treated differently.

The Answer, up front:

Instead of continuing to fight in the dark…

Tenants and Owners must start working together to develop data-based solutions in a spirit of openness and collaboration.

Omnichannel: Current retail industry definition

- Buy online, pick up in-store
- Search in-store products online
- Shared "shopping cart" between desktop and mobile
- Loyalty points earned and redeemed across channels
- Return products across channels
- Customer service—5 or more channels
- Consistent pricing across all channels

Source: Methodology for Total Retail's Top 100 Omnichannel Retailers Report, ©2018 Total Retail Group totalretail.com

Online apparel sales portion of all U.S. apparel sales:

20.7%   2015

23.5%   2016

27.4%   2017

Source: Internet Retailer, August 2018 © Vertical Web Media LLC

Apparel is ahead of Food & Beverage and other Specialty Retail.

Omni-Channel Hot Button Issues

A. Retailers' Development and Use of Technology to Track Sales
B. Reporting Gross Sales vs. Paying Percentage Rent
C. Internet Sales Returns
D. Click-and-Collect Sales
E. Ship-From-Store Sales
F. In-Store Technology Used to Create Additional Internet Sales
G. Customer Shopping Patterns (Customers Purchase New Merchandise at Stores)

Therefore, for U.S. apparel & specialty retail sales…

1 in 5 shoppers
is a customer you can't see.
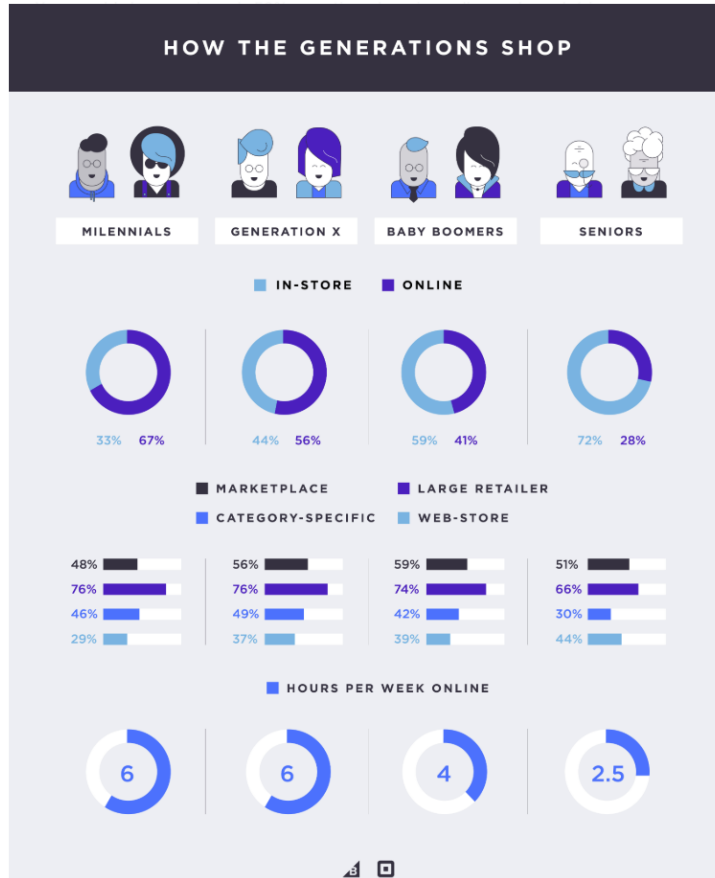
Source:
The Complete Omni-Channel Retail Report:
What Brands Need to Know About
Modern Consumer Shopping Habits in 2018
© Copyright 2018 BigCommerce Pty. Ltd.
bigcommerce.com/blog/omni-channel-retail/

Use of Gross Sales Information

A. Measuring Production of Property
B. Percentage Rent
C. Tenant Remedies
D. Kick-out
E. Future Planning
F. Future Rent Negotiations

Key Lease Requirements: Rental Section

➢ **Gross Sales Definition (Inclusions / Exclusions / Deductions)**

➢ **Reporting Requirements: Statements of Gross Sales (Form)**

➢ **Payments**

➢ **Penalties**

➢ **Right To Audit and Recordkeeping**

➢ **Observations and Other Related Issues**

Key Issue: Returns as a Deduction

- If online returns are accepted, how are they booked by the Tenant?

- Can online returns be re-stocked? Or must they be shipped to DC?

- Online returns increase center visits

- What does the lease say?

- Returned funds are "hot cash" for spending (again)

Want to learn more? Our written materials are outstanding!

Why does Tenants' Gross Sales Reporting Matter?

Typical Lease Requirements & Current State of Reporting Compliance

Current State of How Customers Have Changed—and Are Changing—Their Behaviors

Asking the Right Questions when Negotiating a Gross Sales Provision in a Shopping Center Lease or Lease Amendment

Thank you!

The Answer:

Instead of continuing to fight in the dark…

Tenants and Owners must begin working together to develop data-based solutions in a spirit of openness, partnership and collaboration.

Make Your Voice Heard,

Complete the Session-Specific Surveys!

survey.icsc.com/2019LCW?session=76604

WiFi

Network: ICSC Law Conference

Password: 2019ICSC