

Aéropostale convictions – consequences for brand and retail

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Last week's conviction of Christopher Finazzo the former Executive Vice President and Chief Merchandising Officer at US fast fashion brand Aéropostale Inc. will lead most fashion and retail businesses to review their purchasing policies and procedures. Those who have a connection with the UK would be wise to include possible liability under the UK Bribery Act 2010 in that review.

Finazzo was sentenced last week to 8 years in jail after being convicted of defrauding Aéropostale and taking more than \$25 million in bribes from one of Aéropostale's key suppliers. Finazzo was also ordered to forfeit more than \$25 million and pay Aéropostale \$13.7 million in restitution. Prosecutors at the trial said that Finazzo entered into an illegal arrangement under which Finazzo arranged for the purchase of more than \$350 million worth of t-shirts and fleeces from the supplier in exchange for around 50% of the supplier's profits. The supplier was sentenced earlier this month to 3 and a half years in prison after pleading guilty to offences relating to the scheme.

The Aéropostale case is one of a recent line of cases which have lifted the lid on buying practices of major retailers. In June 2012 for example courts in the UK looked at a large supermarket buying fraud where a potato supplier bribed a supermarket buyer to push contracts their way. The supplier's CFO received a 3 year jail term with the account manager sentenced to 30 months in prison. The potato buyer pleaded guilty to corruption and money laundering and was sentenced to 4 years in prison. Under the scheme the buyer accepted £4.9 million in bribes which were paid for by the supplier marking-up the price of the potatoes. The court also heard of luxury extras including trips to the famous London hotel Claridge's and a £350,000 trip to Monaco to watch the Grand Prix. The buyer also drove a £94,000 Aston Martin car. Under the UK Bribery Act 2010 in circumstances like this both the giver and receiver of bribes can be prosecuted. The Act also has extra territorial effect so that UK jurisdiction would bite if for example:

- the corrupt deal included a UK corporate entity (even if owned by a foreign parent);
- the acts or omissions took place in the UK (for example in a meeting at Heathrow airport); or
- one of the individuals in the deal had a close connection with the United Kingdom (for example they are a British citizen or are ordinarily resident in the UK).

This extraterritorial reach is clearly important in the world of fashion as most major fashion brands now have a presence in the UK and also as a result of the significant representation of UK nationals and residents in the fashion world. For most businesses the safe course will be to assume that the UK legislation applies.

Whilst the fact that some corruption exists may not come as a surprise to those involved in the retail world on a daily basis, the scale and amounts involved are perhaps more surprising. As well as having proper policies and procedures in place businesses will need to train those involved in purchasing on the need for diligence and the company will need to demonstrate that that training has taken place. We have experience of putting together training programs for retail and brand businesses at different levels in the organisation from store associate to management. There is a sample of the training we do [here](#) and you can find out more about what do in the retail and brand environment [here](#).

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