

# A Beacon of Hope for Retail

By Bernadette Jew, Susan Wnukowska-Mtonga and Clare Harris

**Two-thirds of shoppers are using a digital device before they go shopping, and nearly a third of shoppers are using a mobile device while they shop.<sup>1</sup> And now, retailers can enhance the in-store shopping experience of these tech savvy customers even more – using beacon technology to interact with their mobile devices. However, Australian retailers need to take care that they are providing appropriate assurances to their customers, and that they are complying with their legal obligations.**

In the US and Europe some retailers have already introduced beacon technologies in their physical store to tap into customers' mobile devices and influence their retail activities. Beacon-triggered messages are expected to drive up to \$US4.1 billion of total US in-store sales in 2015, and that figure is set to increase tenfold in 2016.<sup>2</sup> So what does this mean for Australian retailers?

## How do beacons work in retail?

Beacons are low-cost devices that use Bluetooth Low Energy (BLE) to transmit information to smartphones within close proximity. The small devices (around the size of a thumb drive) can attach to store walls, mannequins and most other surfaces. In fact, all iPhones running iOS7 or newer operating systems now contain iBeacons.

Customers are required to download a mobile application, which then enables the store to use beacons to interact with the customer in-store – and to integrate information from loyalty programs, mobile payment and digital marketing programs.

The customer must opt-in to share their location and elect to receive push notifications. Stores can integrate data collected from the customer's online shopping, and use that information to enhance the customer's experience in the physical store. For example, the store can send out push notifications with discounts on particular items that the customer has viewed online.

Beacon technology can collect all kinds of information about customer behaviour in the physical store.



The time that a customer spends at a particular location within the store.



The busiest hours in the store.



How many people walk past a particular location in the store.

This kind of data allows retailers to send customers more personalised offers, and to optimise store layout and staff allocation on the floor.

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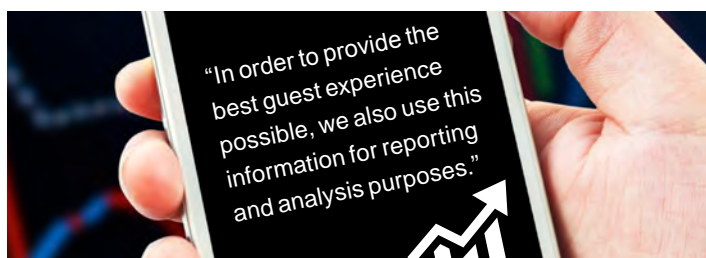
<sup>1</sup> Kasey Lobaugh, Jeff Simpson and Lokesh Ohri, 'Navigating the New Digital Divide' (Deloitte Digital, 2015).  
<sup>2</sup> Cooper Smith, 'The Beacons Report: Sales-influence forecast, retail applications, and adoption drivers' (BI Intelligence, 30 January 2015).

## The fine print for Australian retailers

In July 2014, Sydney-based shopping mall Chatswood Chase completed a 100 person trial of beacon technology, using a mobile application to provide customised offers to customers in-store. It is only a matter of time before beacon technology is rolled out across Australian retail outlets.

However, it is important to recognise that the legal issues in Australia will be different to those in North America or Europe. Unlike the US, Australia has rigorous privacy laws to protect individuals from the misuse of their personal information. Some states and territories also have laws regulating the use of tracking devices that determine the geographical location of a person. Therefore, the US style of customer notification would not be adequate in Australia.

While some states in the US have enacted privacy laws, there is no national privacy scheme. US retailers are therefore able to provide broad notifications about how a customer's information may be used such as:



However, in practice, US consumers are demanding higher standards of disclosure. A recent US survey of 1,000 shoppers indicated the following:



This is no doubt exacerbated by the fact that most customers in the US have no visibility of what information a retailer collects – or the purpose for which it will be used. On the other hand, the Australian pilot at Chatswood Chase revealed that customers were willing to engage with the mobile offers being pushed out and that 91% of customers found the mobile trial a positive experience.<sup>4</sup>

Australian retailers must be much more specific in their disclosures in order to meet their legal obligations – and the

expectations of consumers. Australian retailers need to set out, among other things:

- + the types of personal information that beacon technology will collect (in conjunction with the mobile application) eg customer contact details, location and credit card information provided for online/mobile purchases; and
- + details of each specific purpose for which the retailer will use that information eg sending personalised offers to customers, monitoring foot traffic, and for marketing strategies.

For retailers with overseas parent companies, it is also important to inform the customer if the personal information will be disclosed overseas.<sup>5</sup>

## Tracking devices

Compliance with relevant state and territory surveillance laws is another consideration for Australian retailers. Under the *NSW Surveillance Devices Act 2007* a beacon falls within the definition of a “tracking device” as it is able to monitor the geographical location of a consumer through their smartphone. This triggers the mandatory requirement of having customer consent to:

- + the in-store installation, maintenance and use of the beacons; and
- + the purpose for which the beacon will be used.<sup>6</sup>

This is likely to require pop-up notices that are displayed to customers when they download the apps, as well as in-store signage. Pop-up notices would need to request a customer's consent to share their location with the beacon. Physical signage in-store would need to state that the store has installed and uses beacon technology to track a customer's geographical location if they have downloaded the application and consented to share their location.

## Conclusion

Beacons have enormous potential to enhance and influence a customer's shopping experience. The financial advantages of the technology are already being demonstrated in the US,<sup>7</sup> and the trial at Chatswood Chase recorded a boost in traffic in retailers during that beacon trial period<sup>8</sup>. However, retailers will need to adopt a cautious approach to disclosure if they are to meet their legal obligations, and also provide the assurances that consumers require.

<sup>3</sup> OpinionLab, 'New study: consumers overwhelmingly reject in-store tracking by retailers survey' (Press Release, 27 March 2014) < [http://www.opinionlab.com/press\\_release/new-study-consumers-overwhelmingly-reject-in-store-tracking-by-retailers/](http://www.opinionlab.com/press_release/new-study-consumers-overwhelmingly-reject-in-store-tracking-by-retailers/) >.

<sup>4</sup> Nadia Cameron, 'Chatswood Chase reveals customer insights from iBeacon trial', CMO (online), 31 July 2014 < [http://www.cmo.com.au/article/551328/chatswood\\_chase\\_reveals\\_customer\\_insights\\_from\\_ibeacon\\_trial/](http://www.cmo.com.au/article/551328/chatswood_chase_reveals_customer_insights_from_ibeacon_trial/) >.

<sup>5</sup> *Privacy Act 1988* (Cth), Schedule 1, Australian Privacy Principles.

<sup>6</sup> *Surveillance Devices Act 2007* (NSW), s 9.

<sup>7</sup> Cooper Smith, 'The Beacons Report: Sales-influence forecast, retail applications, and adoption drivers' (BI Intelligence, 30 January 2015).

<sup>8</sup> Nadia Cameron, 'Chatswood Chase reveals customer insights from iBeacon trial', CMO (online), 31 July 2014 < [http://www.cmo.com.au/article/551328/chatswood\\_chase\\_reveals\\_customer\\_insights\\_from\\_ibeacon\\_trial/](http://www.cmo.com.au/article/551328/chatswood_chase_reveals_customer_insights_from_ibeacon_trial/) >.