

IN-HOUSE PROFILE

HEAD OF LEGAL – ECOMMERCE



High noon

Justin Dowding, Head of Legal & Company Secretary at noon discusses setting up a new ecommerce enterprise from scratch.

ABOUT YOU

I am originally from Guernsey in the Channel Islands and graduated from Liverpool University in 2003 before completing the GDL and LPC at BPP Law School, London. In 2008, I was admitted as a solicitor in England and Wales.

My wife and I had been living in London for several years and had often discussed the possibility of living and working abroad. We felt at that time it was 'now or never'. After considering Singapore, the USA and Middle East as possible places to work we ended up choosing Dubai.

It was somewhere we had visited many times and had a number of close friends who worked and lived here. Initially, we decided to come for two years...and, almost four years and three children later, we're still very happy in the Middle East.

YOUR BUSINESS

I currently work for noon, the GCC based ecommerce company formed by Saudi Arabia's Public Investment Fund (PIF) and HE Mohamed Alabbar. The Group's parent company, Noon Investments Company, is located in Saudi Arabia and has subsidiaries in Saudi Arabia, the UAE, India and Sri Lanka which support its business divisions, including, Noon Ecommerce, Noon Express, Noon Fulfillment and Noon Pay.

Due to the range of services and operations noon performs, the challenges and applicable legislation and regulations affecting our business are wide-ranging and continuously changing. For example, the recent introduction of VAT in the region became a time-consuming and complex task to initiate, especially as we had to factor in cross-border sales over a marketplace platform and the thousands of sellers and suppliers which needed certification.

We also work closely with the UAE's Central Bank and Saudi Arabia's Monetary Agency to ensure Noon Pay maintains all appropriate licensing and regulatory approvals, including adhering to the Regulatory Framework for Stored Values and Electronic Payment Systems.

However, from a professional and personal perspective, I'm intrigued to see how the introduction of the EU General Data Protection Regulation impacts the GCC, as the 25 May 2018 deadline gets closer.



Given the extensive fines for non-compliance, failing to assess your company's exposure to the data of individuals located in the EU would be extremely unwise. Meanwhile our expansion into Saudi Arabia has presented new challenges, including ensuring we comply with the Saudi nationalisation scheme, cross border movement of goods and all the relevant Islamic laws.

YOUR CAREER

I took the unusual route of training inhouse at the Royal Bank of Scotland in London and in hindsight, it was a great decision.

The level of responsibility, diversity of work and ability to work closely with the business was something I thoroughly enjoyed. I completed my litigation seat at Allen & Overy but quickly realised I wanted to stay inhouse when I qualified. I then moved to RBS's TMT, Commercial and Outsourcing legal division and spent four eventful, challenging but enjoyable years at their London head office.

In 2012, I accepted a role at Expedia Inc. in London as their TMT lawyer for EMEA. Expedia was a tech-savvy brand on the rise and I'd always been interested in the travel sector. I was lucky to work with a great team and it's no surprise Expedia regularly wins awards as an employer of choice, as it's a fun company to work for.

In 2014, I moved to Dubai to become Senior Legal Counsel at Transguard Group (part of the Emirates Group). While I was there, the company grew from

PRACTITIONER PERSPECTIVE



Nabil Issa
Partner
King & Spalding

Nabil Issa, Partner at King & Spalding looks at some of the key considerations for ecommerce start-ups in Saudi Arabia.

Saudi Arabia is keen to see more ecommerce and other entrepreneurs succeed. The Public Investment Fund has announced it is launching a fund of over 4 billion Riyals to invest in funds supporting venture capital and private equity. The Small & Medium Enterprises

Authority (SMEA) has also announced a 2.7 billion Riyal Fund which will focus on angel investments and venture capital. In addition, Saudi Telecom Ventures (ST Ventures) has announced it has raised hundreds of millions of dollars to invest in venture capital companies with a partial focus on Saudi Arabian entities. Through financial support for borrowing via the Takamol Programme a number of funds have also been launched to focus on investing in this sector. The first three qualifying funds were launched by Riyad Capital/Taqnia, Malaz Capital and BlueVIne. The Riyad Capital/Taqnia fund has already announced multiple investments. The SMEA is also currently working with the Capital Market Authority, Commerce & Investment Ministry and SAGIA to conduct a review of regulations which impede investments by entrepreneurs and making recommendations to amend them. Saudi Aramco Entrepreneurship Ventures (Wa'ed) also continues to be an active investor in start-up companies in Saudi Arabia. In addition, the Capital Market Authority (CMA) also recently made it easier for parties wishing to establish a CMA fund focused on venture capital or private equity. Typically to get all five licences to operate as a CMA Authorised Person required capital of 50 million Riyals. Now, if a party wishes to focus on only venture capital and private equity funds, the required capital is 5 million Riyals.

REGULATORY ISSUES

If an e-commerce business has any non-GCC national ownership in its equity capital structure, time will need to be spent considering how the product will be imported, stored and

sent to customers. For example in Saudi Arabia, a non-GCC investor can get licensed by the General Investment Authority to conduct warehousing of a product. However, if the entity wishes to engage in the sale of a product it must have at least a 25% Saudi Arabian partner and the foreign investor must inject capital of 20 million Riyals. As there aren't different classes of shares, the Saudi joint venture partner must put in the same amount per share. Therefore, if the parties set up a 50/50 joint venture then the minimum capital of the company needed to engage in sales is 40 million Riyals. The minimum capital to engage in the sale of products is therefore prohibitive to most start-ups and many will appoint a Saudi distributor to be the entity which actually sells the product for a commission on sales. In terms of joint ventures, the Companies Law does permit disproportionate profits. Therefore, although a Saudi Arabian party must hold 25% of the capital, it can be agreed in the registered articles the Saudi party will receive less than 25% of the profits.

LAST MILE DELIVERY

Currently, a foreign party cannot be licensed to engage in last mile delivery and it is extremely difficult for even 100% Saudi Arabian owned parties to get a courier license. However, Saudi Arabian parties, can get a license for 'fee for delivery' and are generally allowed to deliver products if they are selling their own products (rather than delivering products of other parties). A foreign party will therefore need to get another licensed entity for the last mile delivery from the Saudi warehouse to the ultimate consumer ordering an ecommerce product.

The delivery of food products is also under a different license from the local Municipality. As a result, most ecommerce companies work with Saudi licensed entities who perform the last mile delivery of the products.

In addition, any product delivered from outside Saudi Arabia will incur a 5% customs duty and this needs to be taken into consideration if the ecommerce start-up in Saudi Arabia is licensed as the importer of record for the products.

25,000 to 60,000 employees, with an annual turnover of 1.9 billion AED.

After a year I became Head of Legal, managed a team of five lawyers and was responsible for all day to day legal operations across Transguard's multiple business sectors, including, security, manpower, cash services, outsourcing and facilities management.

The move to noon in 2017 was a return to my tech roots. I wanted to join 'the next big thing' in ecommerce and was employed to help drive the payments, logistics and technology divisions as we geared-up to go-live in the UAE and Saudi Arabia.

I'm now Head of Legal and Company Secretary, with responsibility for all legal, regulatory and

governance functions across the Group.

I'm immensely proud of helping to create something incredible from scratch and watching the end product successfully go live in the UAE and Saudi Arabia.

In under a year, noon has built a scalable, customer friendly ecommerce technology platform, signed up tens of thousands of product suppliers and sellers, built a payment gateway platform, completed significant commercial arrangements with Alshaya and eXtra, established a JVCO with PIF in Saudi Arabia and constructed a 200,000 sq. ft. fully operational and state of the art fulfillment centre in Dubai South. What's more the legal team worked side by side with the business divisions every step of the way.