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Retail clothing giant cuts payments to suppliers

The retail clothing chain Matalan has angered many of its suppliers by announcing that it is deducting 2% from their invoices.

It says the move will help to pay for TV advertising and expansion plans. That might be very helpful for Matalan but it's a major blow for many of its small suppliers who are already struggling in the wake of the credit crunch.

The problem of late payments seems to be getting worse every month. Nearly nine out of ten firms who took part in a survey carried out by the Forum of Private Business said that their bigger customers failed to pay their invoices within the agreed timescale. Nearly one in three is owed between £1,000 and £5,000 which they say is causing cash flow problems.

The real question, of course, is what can firms do about it? The answer is that they can do a great deal if they are prepared to exercise their rights.

When companies fail to meet their agreed payment dates or decide to impose arbitrary deductions they are essentially flexing their business muscle. They are relying on the fact that many suppliers will be too afraid to challenge them for fear of losing future business.

How you as a supplier respond will be influenced by many factors including how important the debtor company is to your business and how desperate your cash flow problem has become.

For many firms, however, the issue ultimately boils down to this: what is the point of working hard to supply a firm that



then puts your very survival in jeopardy by delaying payment or even refusing to pay the agreed amount.

It is at this point that many firms decide enough is enough and press on to assert their rights. The first step may be to simply ask your solicitor to draft a letter requesting payment and outlining what action may be taken if the debt is not settled.

Under the Late Payment of Commercial Debts (Interest) Act 1998, for example, firms are allowed to charge interest on overdue invoices. This punitive charge is currently 8% above base rate. Firms are entitled to levy a statutory late payment fee of between £40 and £100 depending on the size of the debt. Most companies will pay up immediately when they see you are serious about exercising your rights but for more hardened cases, it may be necessary to initiate legal proceedings. This steps up the pressure even further and often results in payment before the matter ever gets to court.

Suppliers are also protected from unilateral changes to contract terms such as when a customer suddenly decides that they are going to pay less than the amount agreed. The supplier is entitled to insist on sticking to the original terms. That is basic contract law which cannot be overturned on the whim of one of the parties involved.

If one of your customers does decide to pay less than agreed then you will almost certainly be able to claim interest on the outstanding amount and impose a late penalty charge under the Payment of Commercial Debts (Interest) Act 1998.

Firms will always have to balance the need to be paid on time with the need to maintain a good relationship with an important customer, but for those who feel the time has come to act, the law offers a considerable level of protection.

The number of companies facing 'critical problems' rises by 685%

There was a rise of 685% over the last year in the number of companies encountering "critical problems," according to research carried out by Begbies Traynor, the corporate restructuring specialists.

For the purposes of the research, "critical problems" means having County Court Judgments totalling more than £5,000 or facing Winding-up Petition related actions.

A total of 4,258 companies fell into those categories in the second quarter of this year compared with only 542 in the same period last year – a rise of 685%.

The research also shows that the difficulties have been getting worse as 2008 progresses. The second quarter figures were 28.68% higher than those in the first quarter.

The future looks gloomy for many of these companies. Previous research by Begbies shows that 15% of firms categorised as having "critical problems" enter into formal insolvency within the next 12 months. The researchers blame the credit crunch



for many of the difficulties these companies are facing. Ric Traynor, Executive Chairman of Begbies Traynor Group, said: "With credit conditions still tightening, these new figures demonstrate that the effects are certainly getting worse, and we would anticipate that they will continue to do so, certainly until the end of this year at least.

"Credit lines have dried up and companies which might have been supported by extended credit up to a year ago are now at real risk."

Big increase in number of possession actions

There has been big increase over the last year in the number of claims and orders for repossession going through the courts, according to figures produced by the Ministry of Justice.

There were 39,078 mortgage possession claims issued in England and Wales during the second quarter of this year. That's 17% higher than the corresponding quarter last year and the same as the first quarter of this year.

The second quarter of this year also saw a total of 28,658 mortgage possession orders being made; that's 24% higher than the same period last year and a rise of 4% on the first quarter of this year. A total of 37,609 landlord possession claims were issued in the second quarter of this year; approximately the same as in the first quarter but 2% higher than in the second quarter of last year.

There were 28,042 landlord possession orders; 8% higher than the second quarter of last year and just 1% lower than the first quarter of this year.

The Ministry of Justice points out that the figures only relate to the number of possession proceedings issued and the number of possession orders made by the courts. As many of the orders will not have been enforced the figures do not necessarily reflect how many properties have actually been taken into possession.

Nevertheless, the rising trend is another indicator of the difficult economic climate and the need for companies to keep a careful watch on outstanding debt.



New guidelines to help prevent 'irresponsible lending'

New guidelines to help prevent irresponsible lending are being drawn up by the Office of Fair Trading (OFT).

The move follows changes introduced in the Consumer Credit Act 2006 which mean the OFT now has to consider the possibility of irresponsible lending before granting a consumer credit licence. It is now in the process of consulting with business, consumer groups and other stakeholders to identify potential problems it may need to address. An OFT statement says: "The study will consider all forms of consumer credit lending which the OFT licences and all participants in the market, including lenders, brokers and other intermediaries.



"The issues the review could consider include the advertising and marketing of products, selling techniques, product design, use of credit scoring techniques, appropriateness of products to borrowers, sale of associated products and management of consumers' accounts including handling of defaults and arrears."

The main objective of the process is to produce clear and concise guidelines on practices which the OFT believes to be irresponsible and unacceptable. Failure to comply could result in a licence being revoked. There are currently 120,000 consumer credit licence holders in the UK.

Ray Watson, OFT Director of Consumer Credit, said: "Credit is an important part of everyday life so it is vitally important that consumers are safeguarded from irresponsible lending and that businesses have clarity about what this constitutes. The OFT looks forward to hearing from a wide range of businesses, consumers and representative bodies on these issues."

Rise in company liquidation figures

The number of company liquidations in England and Wales continues to rise.

There were a total of 3,560 compulsory and creditor's voluntary liquidations (CVL) in the second quarter of this year on a seasonally adjusted basis. That represents an increase of 11.6% on the first quarter and an increase of 15% on the corresponding period last year.

The headline total included 1,324 compulsory liquidations which represents an increase of 19.8% on the previous quarter but a decrease

of 0.7% on the corresponding period last year. CVLs accounted for the other 2,236 liquidations – an increase of 7.3% on the previous quarter and an increase of 27% on the same period in 2007.

The figures, produced by the Insolvency Service, also show that for bankruptcy orders, there has been a significant shift away from creditor's petitions towards debtor's petitions in recent years. So much so that by the second quarter of this year, 84% of bankruptcy orders were made on the petition of the debtor.

Where next



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