

NEWSLETTER



Committee Against Smuggling and Counterfeiting Activities Destroying the Economy

CHAIR'S MESSAGE



Anil Rajput
Chairman
FICCI CASCADE

INSIDE THIS ISSUE



NEWS FLASH



RECENT INITIATIVES



PUBLICATION



MEDIA COVERAGE



AWARENESS
THROUGH ART



NEWS

The Coronavirus pandemic has created a global crisis with far-reaching social and economic repercussions. During this crisis of unimaginable magnitude, it is time for all of us to act on the measures outlined by the Government to deal with its spread. While the Indian government is continuously intensifying efforts to combat this challenge by enacting various measures to support public health systems, safeguard the economy and ensure the safety of its citizens, smugglers and counterfeiters are taking full advantage of the pandemic. They continue to use shortages in the supply of some goods to increasingly provide illicit alternatives such as food and grocery items, sanitary and healthcare products, indoor sports equipment, cigarettes, liquor etc. both online and offline. Guidelines from INTERPOL also warn of emerging crimes linked to pandemic, which include counterfeiting, fraud or phishing and cybercrime. Arresting the sale of illicit goods at the time of this unprecedented crisis needs our immediate and unwavering attention.

It is well known that illicit trade such as smuggling and counterfeiting exacerbates unemployment, bleeds the economy and causes tremendous harm to the health and safety of the people. The current situation which is already imposing severe socio-economic distress, sale of fake and smuggled goods and other related crimes will only worsen the problem. This issue contains several media reports on the same. To highlight this concern, FICCI CASCADE issued a joint statement in collaboration with The Transnational Alliance to Combat Illicit Trade (TRACIT), warning consumers about the risks and growing availability of fake, falsified and substandard medical, healthcare and other products. It also called for stern actions from the government and enforcement agencies to see that criminals do not profit from this pandemic.

Earlier this year, while continuing our state level engagement activities, we organized seminars on *Containing Counterfeiting and Smuggling - A Step Towards Prosperous Nation Building* in Chennai and Jaipur. We were encouraged to see the support of the governments of both these states in our endeavour to address this threat. Mr. Ramesh Chand Meena, Hon'ble Minister for Food, Civil Supplies & Consumer Affairs, Government of Rajasthan, extended his support to our initiative and stated that he will work in close collaboration with CASCADE to address this issue, while Hon'ble Dr. Justice S. Tamilvanan, President, Tamil Nadu State Consumer Disputes emphasized that effective enforcement, special courts and tribunals and consumer awareness are the much needed pillars to curb this growing menace of smuggling and counterfeiting. To bring about consumer sensitization, we also held a *Consumer Meet and a Candlelight Congregation to Fight Counterfeiting and Smuggling* in Jaipur. It was heartening to see that consumers from all walks of life with candles in their hands pledged against using fake and smuggled products in the larger interest of the nation and its economy.

We also saw results from our roundtable on *Counterfeit Food Products* with FSSAI (Food Safety and Standards Authority of India) and industry representatives from the food industry, held earlier. Based on the deliberations of the roundtable, FSSAI shared an actionable agenda for all concerned officers of Food Safety across the country to create the desired deterrence and strengthen actions against the illegal operators in this business.

To highlight the enormity of the problem of illicit trade, FICCI CASCADE has been tracking its media coverage through its monthly Media Monitor. It is important to highlight that over the past months many media reports have stated that the enforcement agencies have been able to catch smugglers and seize goods worth several crores on a regular basis across various product categories. This shows that the government is serious about addressing this issue and is taking the relevant steps to curb its spread.

I'm confident that you will find this issue a meaningful read. On our part, we will continue to work persistently to expose this scourge and work closely with all the stakeholders to blunt the impact of smuggling and counterfeiting.

I also urge all of you to stay safe. The need of the hour at this juncture is to collectively fight the Coronavirus and I am sure we will overcome this challenge soon.



Deccan Chronicle

January 22, Chennai

₹1,17L crore loss due to smuggling: Study

DC CORRESPONDENT
CHENNAI, JAN. 22



The country loses ₹1,17,253 crore due to smuggling in textiles, cigarettes, ready-made garments, capital goods and consumer electronics sector, according to a study conducted by FICCI Cascade's study — 'Invisible Enemy: Impact of Smuggling on Indian Economy and Employment.'

The study also revealed that 16.36 lakh people lost employment opportunities due to backward linkage and multiplier effects in these sectors in 2017-18. About 5.01 lakh direct employment opportunities were lost in textiles, cig-

arettes, readymade garments, capital goods and consumer electronics was in 2017-18 and 3.55 lakh persons lost employment opportunities in readymade garments and tobacco products, which are labour-intensive industries. The country lost Rs 1,17,253 crore due to smuggling in these five sectors.

Another FICCI report, 'Illicit trade: Fueling Terror

Financing and Organized Crime' also highlighted that about 2 to 2.6 million jobs were lost across globe due to counterfeit and piracy in 2013 and it is expected to grow up to 4.2 to 5.4 million in 2022, an approximate increase of 110 per cent.

Inaugurating conference on 'Containing Counterfeiting and Smuggling - A Step Towards Prosperous Nation Building', Justice S. Tamilvanan, president, State Consumer Disputes Redressal Commission, Chennai, said smuggling and counterfeiting affects not only the government revenue but industries also face the heat. The need of

hour is to increase awareness on the hazards of counterfeiting and smuggling and effective enforcement of laws, he said.

DGP Civil Supplies (CID), Tamil Nadu Prateep V. Philip, said increasing internet penetration of over 302 million internet users makes India the second largest online user base in the world. Owing to the shift in customers from offline purchases to online purchases, a multi-pronged and multi-layered approach across all supply chain is required to establish a universal and uniform electronic pedigree.

Among others, chairper-

son, FICCI Tamil Nadu State Council & JMD, the KCP Ltd V. Kavitha Dutt, advisor, FICCI CASCADE and former chairman, Central Board of Excise and Customs P. C. Jha, International Expert, Customs Law, Procedures & Trade facilitation and Think Tank member, FICCI Cascade, Kameswari Subramanian, advisor, FICCI Cascade and former Special Commissioner of Police, New Delhi and Deep Chand, Director of Programs, Transnational Alliance to Combat Illicit Trade (TRACIT), P. Suriya Prabha, and Head, FICCI Tamil Nadu State Council P. Sridharan, spoke on the occasion.

Millennium Post

January 23, 2020, Chennai

Prevention of smuggling can increase employment by up to 16.36L: Ficci repost

CHENNAI: Justice S. Tamilvanan, President, Tamil Nadu State Consumer Disputes Redressal Commission, on Wednesday said that as per the Consumer Protection Act, 1986 consumer rights should be protected. Smuggling and counterfeiting is affecting not only the revenue of the government but is also adversely impacting commerce and industry and the health and safety of the people.

Speaking at the seminar on 'Containing Counterfeiting and Smuggling - A Step Towards Prosperous Nation Building' organized by FICCI CASCADE (Committee Against Smuggling and Counterfeiting Activities Destroying the Economy), Dr. Tamilvanan said, "This national problem can be reduced through proper laws and stringent actions, which in turn will lead to a prosperous nation building. Effective enforcement, special courts and tribunals, proper development and awareness are the pillars to



V Kavitha Dutt, Chairperson, FICCI Tamil Nadu State Council & JMD, The KCP Ltd presenting a green certificate to Dr Justice S Tamilvanan, President, Tamil Nadu State Consumer Disputes Redressal Commission during seminar on 'Containing Counterfeiting and Smuggling - A Step Towards Prosperous Nation Building' in Chennai

curb this menace." FICCI CASCADE's recent study titled, 'Invisible Enemy: Impact of Smuggling on Indian Economy and Employment' quantitatively estimates both revenue and employment opportunity lost due to smuggling in five specific industries. According to the report the total direct employment opportunity lost in Textiles, Cigarettes, Readymade Garments, Capital Goods and Consumer Electron-

ics is about 5.01 lakh in 2017-18. 3.55 lakh employment opportunity lost is in readymade garments and tobacco products, being largely labour-intensive industries. While, the total employment opportunity lost in the economy is about 16.36 lakh in 2017-18 due to backward linkage and multiplier effects of these five industries. The Indian economy loses Rs 1,17,253 crore due to smuggling in these five sectors.

The Public Side Jaipur

February 14, 2020, Jaipur

Prevention of smuggling can increase employment by up to 16.36 lakh jobs in Five Key Industries: FICCI CASCADE

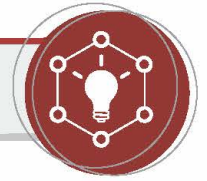
Seminar on Containing Counterfeiting and Smuggling - A Step Towards Prosperous Nation Building

Jaipur. 'Counterfeiting and smuggling related crimes have increased manifold in the global market resulting in revenue loss to government and businesses and adversely impacting the health and safety of the consumers' said Shri Ranesh Chand Meena, Hon'ble Minister for Food, Civil Supplies & Consumer Affairs, Government of Rajasthan, chief guest at the FICCI CASCADE (Committee Against Smuggling and Counterfeiting Activities Destroying the Economy) seminar on 'Containing Counterfeiting and Smuggling - A Step Towards Prosperous Nation Building' organized today. He extended his support and looks to working in close collaboration with FICCI CAS-



CADE to address this issue. The seminar discussed the importance of increased awareness on the hazards of counterfeiting and smuggling, and the need for effective enforcement to enhance India's economic development. Dr K L Jain, Member, FICCI Rajasthan State Council & Honorary Secretary General, RCCL, in his welcome address highlighted that counterfeiting and smuggling adversely impacts industries, consumers, government and economies as a whole. Illicit

trade has a serious decelerating effect on growth which must be curbed substantially. Consumers must be emphasized on taking a bill on every purchase or making India a tax compliant nation and encouraging citizens to be a part of progressive nation building. As per FICCI CASCADE report the total loss to the industry on account of illicit markets in just seven manufacturing sectors is about Rs. 105,381 crores and the total loss to the government is Rs. 39,239 crores. Amongst the various sectors, the maximum revenue loss to the exchequer is attributed to tobacco products, estimating a revenue loss of Rs. 9139 crores, followed by mobile phones at Rs 6795 crores and alcoholic beverages at Rs 6389 crores. FICCI CASCADE's recent study titled- 'Invisible Enemy: Impact of Smuggling on Indian Economy and Employment' quantitatively estimates both revenue and employment opportunity lost due to smuggling in five specific industries. According to the report the total direct employment opportunity lost in Textiles, Cigarettes, Readymade Garments, Capital Goods and Consumer Electronics is about 5.01 lakh in 2017-18. 3.55 lakh employment opportunity lost is in readymade garments and tobacco products, being largely labour-intensive industries.



RECENT INITIATIVES

Seminar on Containing Counterfeiting and Smuggling A Step Towards Prosperous Nation Building

January 22, 2020 | Chennai

In the modern economic era, with technological advancements accelerating international trade and fragmentation of global supply chains, there is the need to maintain a right balance between trade facilitation and law enforcement. Significantly, as a result of these developments, the geographic scope, capacity and range of illegally traded goods have increased manifold over the years. Illicit trade, including counterfeiting and smuggling, now increasingly threaten economies, communities and the society as a whole. According to the World Economic Forum, economic leakages from illicit trade creates an annual drain on the global economy of US\$2.2 trillion, which is nearly 3% of the world's economy. The scale of counterfeiting and smuggling is huge, and 10% of the global GDP is siphoned off by illicit trade.

FICCI CASCADE has been working relentlessly to create awareness and sensitize all concerned about the harmful impact of counterfeiting, smuggling and piracy. In order to discuss this growing menace, FICCI CASCADE organised a seminar on "Containing



Counterfeiting and Smuggling: A Step Towards Prosperous Nation Building" on 22nd January 2020 in Chennai. Ms. V Kavitha Dutt, Chairperson, FICCI Tamil Nadu State Council & JMD, The KCP Ltd. in her welcome address highlighted that counterfeiting and smuggling adversely impacted industries, consumers, government and economy. "Illicit trade has a serious decelerating effect on growth which must be curbed substantially. Consumers must be emphasized on taking a bill on every purchase for making India a tax complaint nation and encouraging citizens to be a part of progressive nation building," she added.

Hon'ble Dr. Justice S. Tamilvanan, President, Tamil Nadu State Consumer Disputes, was the chief guest at the

seminar. "As per Consumer Protection Act 1986, consumer rights should be protected. Smuggling and counterfeiting is affecting not only the revenue of the government but is also adversely impacting commerce and industry and the health and safety of the people. This national problem can be reduced through proper laws and stringent actions, which in turn will lead to a prosperous nation building. Effective enforcement, special courts and tribunals, proper development and awareness are the pillars to curb this menace," said Hon'ble Justice.





Dr. Prateep V. Philip, IPS, DGP Civil Supplies (CID), Government of Tamil Nadu, in his special address, said that India had a burgeoning market in counterfeit and smuggled goods ranging from electronics to cosmetics, pharmaceuticals, apparels, cigarettes, footwear etc. "The increasing internet penetration of over 302 million internet users makes India the second largest online user base. Owing to the shift in customers from offline purchases to online purchases, a multi-pronged and multi layered approach across all supply chain is required to establish a universal and uniform electronic pedigree. Illicit trade is operated by criminal gangs and terrorist groups which emphasizes the importance of customs and border protection agencies in preventing and reducing this heinous crime," he said.

Mr. P C Jha, Advisor, FICCI CASCADE and Former Chairman, Central Board of Indirect Taxes and Customs, giving an overview on the socio-economic impact of illicit trade on the economy highlighted that the direct employment opportunity lost in textiles, cigarettes, readymade garments, capital goods and consumer electronics was about 5.01 lakh in 2017-18, while the employment opportunity lost in the economy was about 16.36 lakh in 2017-18 due to backward linkages and multiplier effects of these five industries. Mr. Jha also stressed on having zero-tolerance towards illicit products as it fuelled terrorist activities and organised crime.

The seminar generated discussions on the organised crime surge in India and the role of enforcement agencies in combating smuggling and counterfeiting. Ms. Kameswari Subramanian, International Expert, Customs Law, Procedures & Trade facilitation and Think Tank Member, FICCI CASCADE while chairing the session emphasised on

the role of social media, television and broadcasting on curbing the menace of illicit trade. Mr. M M Parthiban, Principal Commissioner of Customs, Chennai Customs Zone, Mr. Peri Umasankar, Additional Director General, DRI, Chennai Zonal Unit, Directorate of Revenue Intelligence and Mr. Vijay Kumar, IPS, Superintendent of Police, CB, CID, Chennai joined Ms. Subramanian in the panel. The enforcement officers echoed on the need for effective coordination and collaboration among the stakeholders coupled with vigorous action in order to counter the growing hazards of counterfeiting and smuggling. With the online purchase fuelling the sale of counterfeit products, the officers urged firms to use bar-codes and RFID tags when selling via e-portals to assure consumers of authentic products.

The role of government and industry to fight against smuggled and fake products and ensuring consumer protection was addressed by representative of leading industries, law firms and senior government officials. Eminent panellists in the deliberations included Mr. Deep Chand, Advisor, FICCI CASCADE and Former Special Commissioner of Delhi Police, Mr. Sajjansingh R Chavan, Commissioner, Civil Supplies and Consumer Protection Department, Government of Tamil Nadu, Ms. Shakthi Priya, Legal Consultant, Hindustan Unilever, Mr. Rajesh Ramanathan, Partner, Factum Law and Mr. R Srivatchan, Director, Chaturth Business Solutions. The panellists were of the view that a streamlined, formal system of informing the manufacturers about the illicit products would allow for an effective communication between consumers and brands and help curb the practice of producing counterfeit products. They emphasised on the fact that illicit trade was a national issue that affected everyone individually, hence, a behavioural change for consumers was required with respect to buying/using such products.

Ms. P Suriya Prabha, Director of Programs, Transnational Alliance to Combat Illicit Trade (TRACIT) elaborated on few international best practices in combating illicit trade, while Mr. P Sridharan, Head, FICCI Tamil Nadu State Council also shared his perspective on the subject.

The seminar witnessed enthusiastic participation of over 120 industry captains, representative from consumer forums, lawyers, government officials, media and other stakeholders. The discussions concluded with a common view that the problem of counterfeiting and smuggling was multifaceted and complex and needed to be discussed time and again with government agencies to emphasize on effectively addressing the menace through adequate laws and enforcement practices; increased engagement with industry and, most importantly, creating awareness in the society to help fight the threat emanating from illicit trade.

Seminar on Containing Counterfeiting and Smuggling

A Step Towards Prosperous Nation Building

February 13, 2020, Jaipur



India, due to its massive strides in the world economic arena, has become a favourite of the smugglers and counterfeiters, who indulge in illegal economic activities with no concern other than making fast profit at any cost. Illicit trade decelerates a nation's progress, be it economic, social, environmental, besides impacting the safety and security of the country and its people. It is estimated that the global illicit trade is now of the size of about US \$3 trillion.

In order to address the menace of illicit trade, which is now a major worldwide concern, FICCI CASCADIE (Committee Against Smuggling and Counterfeiting Activities Destroying the Economy) organized a seminar to contain the menace of counterfeiting and smuggling in Jaipur on 13 February 2020, in keeping with its nationwide awareness campaign on the issue. The focus of the seminar was to provide stakeholders with the tools, information

and the capacity needed to tackle the rising concern on illicit trade.

“Counterfeiting and smuggling related crimes have increased manifold in the global market resulting in revenue loss to government and businesses besides adversely impacting the health and safety of the consumers”, observed Mr. Ramesh Chand Meena, Hon'ble Minister for Food, Civil Supplies & Consumer Affairs, Government of Rajasthan, chief guest at the seminar. Extending his support for the FICCI initiative, he looked forward to working in close collaboration with CASCADIE to address this issue.

Dr. K L Jain, Member, FICCI Rajasthan State Council and Honorary Secretary General, Rajasthan Chamber of Commerce & Industry (RCCI), while welcoming the participants, highlighted that counterfeiting and smuggling adversely impacted industries, consumers,



government and economies as a whole. Illicit trade has a serious decelerating effect on economic growth which must be substantially curbed. Among other steps, consumers should be made aware of the importance of taking a bill on every purchase they make to help make India a tax complaint nation and thus contribute to progressive nation building.

Mr. P C Jha, Advisor, FICCI CASCADE and Former Chairman, Central Board of Indirect taxes and Customs, while speaking on the adverse socio-economic impact that illicit trade had highlighted the that overall global losses due to counterfeiting and piracy stood at Rs. 57.23 lakh crore in 2013 and was expected to go up to Rs. 119.7 lakh crore by 2022. Mr. N K Jain, Member, FICCI Rajasthan State Council & President of the Employers Association of Rajasthan, delivered the vote of thanks.

The focus of discussion during the seminar was on the importance of increased awareness about the hazards of counterfeiting and smuggling, and the need for effective enforcement to enhance India's economic development. During the panel discussions, there were extensive deliberations on the role of enforcement agencies, government and industry in combatting illicit trading activities. Mr. Deep Chand, Advisor, FICCI CASCADE and Former Special Commissioner of Delhi Police, while presiding the panel discussions, stressed on the need to

have a multi-disciplinary approach to encounter this challenge. Society at large, trade and industry, enforcement agencies and policy makers need to come together to fight this concern. He said that the problem was two-fold: counterfeiting and smuggling, and needed to be dealt with through collaborative, effective and stern actions. Joining him on the panel were Mr. Rakesh Kumar Sharma, Principal Commissioner of Custom, Jaipur, Mr. Honhar Singh Meena, Additional Director, Directorate of Revenue Intelligence, Jaipur Regional Unit, Mr. G D Bansal, Vice Chairman, The Bar Council of Rajasthan, Mr. Vishnu Peri, Legal Consultant – Central Region, Hindustan Unilever Ltd. and Mr. Tanmay Jaswal, Founder & Director, Chkfake Brand Protection Solutions Pvt. Ltd. Enforcement officers underlined that counterfeiting and smuggling were attractive propositions due to three factors: easy to emulate, low investments and lack of technical expertise to identify those engaged in such malpractices. They also observed that among various products, cigarettes particularly were mostly prone to smuggling as it was a low-risk, high-reward criminal activity. The panellists stressed on the need to implement existing provisions of laws and simultaneously move towards a more technology-enabled system to counter such illegal operations. They agreed that a strong deterrence in the form of impeccable laws was needed to be put in place to curb the illicit trade menace.

Consumer Meet and Candle Light Congregation on Unite Against Counterfeiting and Smuggling

A Step towards Nation Building

February 14, 2020, Jaipur

Illicit trade decelerates nation's progress, be it economic, social, environmental, besides impacting the safety and security of the country and its people. It is estimated that the global illicit trade is now of the size of about US \$3 trillion. In order to address the menace of illicit trade, FICCI CASCADE (Committee Against Smuggling and Counterfeiting Activities Destroying the Economy) organized a consumer meet and candle light congregation on "Unite Against Counterfeiting and Smuggling- A Step towards Nation Building" in Jaipur on 14 February 2020.

Over 150 consumers with candles in their hands and banners stating, 'Buy Make in India', 'Say no to Counterfeits' and 'Say No to Smuggled Goods' partook in this initiative

to highlight the need to fight the menace. The participants pledged against using fake and smuggled products in the larger interest of the nation's economy. Hon'ble Mr. Justice Vinod Shankar Dave, Former Judge, Rajasthan High Court, in his special address at the consumer meet, emphasized that the youth had to take the responsibility of acting as torch bearers in spreading the message of the perils of counterfeiting and smuggling. He further added that as responsible citizens, everyone must remember their fundamental duties towards making the country safe and prosperous.

According to Dr. K. L. Jain, Honorary Secretary General, Rajasthan Chamber of Commerce and Industry, strict penal provisions coupled with strong enforcement is the need of the hour which will create the much-needed deterrence to stop such offences.

Dr. Anant Sharma, National President, Consumers Confederation of India was of the view that the fight against illicit trade was for the nation, its progress and its future. As consumers it is our duty to stand shoulder to shoulder with the government and the industry in making India a fake and smuggled-free market. It culminated with a common consensus to strengthen the voice against illicit trade with increased awareness, collaboration and collective actions of all stakeholders.





COVERAGE



फिककी केस्कैड ने कहा-जाली उत्पाद नहीं खरीदें, तस्करी के सामान को कहे ना, हर उत्पाद का बिल अवश्य लें



फिककी केस्कैड और केन्स का उप ब्रीफिंग सम्मेलन एवं कैडल लाइट मार्च

बम्बुर (फाइ.)। बलरको और तस्करी के प्रसार को रोकने की दिशा में राष्ट्रीय स्तर पर अधिकार निवारण प्रयोग में सुदृष्टि बना ली है। यह बात मुख्यतः जो बिल फिककी केस्कैड ने प्रकाश एकत्रित किया है।

जालसाजी और तस्करी पर सेमिनार जालसाजी एवं तस्करी के कारण राजस्व का भारी नुकसान



जालसाजी और तस्करी के कारण राजस्व का भारी नुकसान... फिककी केस्कैड ने कहा-जाली उत्पाद नहीं खरीदें, तस्करी के सामान को कहे ना, हर उत्पाद का बिल अवश्य लें

तस्करी के खिलाफ एकजुट होने का आह्वान

जयपुर. 'जालसाजी और तस्करी के सामान ने भारत की विकास रणनीति में घुसपैठ कर ली है। यह बात आज यहां फिककी केस्कैड ने कंज्यूमर एक्शन नेटवर्क सोसायटी (केन्स) के सहयोग से आयोजित उपभोक्ता सम्मेलन एवं कैडल लाइट मार्च के दौरान उजागर हुई।



शुरु किए थे। कार्रवाईयों के बावजूद फिककी के एक अध्ययन से पता चलता है कि नकली, सामान और तस्करी की दर अधिक है। इस अवसर पर पूर्व अध्यक्ष प्रत्यक्ष कर एवं उत्पाद शुल्क पी.सी. झा भी उपस्थित थे।

तस्करी से राजस्व को भारी नुकसान अर्थव्यवस्था को 1,17,253 करोड़ का नुकसान

फिककी केस्कैड ने कहा-जाली उत्पाद नहीं खरीदें, तस्करी के सामान को कहे ना, हर उत्पाद का बिल अवश्य लें... तस्करी से राजस्व को भारी नुकसान... अर्थव्यवस्था को 1,17,253 करोड़ का नुकसान

Prevention of smuggling can increase employment by up to 16.36 lakh jobs in Five Key Industries: FICCI CASCADE

Smuggling has increased employment by up to 16.36 lakh jobs in five key industries: FICCI CASCADE... This report highlights the significant economic and employment impact of smuggling on various sectors.

एक कदम राष्ट्र निर्माण की ओर पर उपभोक्ता सम्मेलन और कैडल लाइट मार्च

बम्बुर (फाइ.)। बलरको और तस्करी के प्रसार को रोकने की दिशा में राष्ट्रीय स्तर पर अधिकार निवारण प्रयोग में सुदृष्टि बना ली है... एक कदम राष्ट्र निर्माण की ओर पर उपभोक्ता सम्मेलन और कैडल लाइट मार्च

तस्करी से राजस्व को भारी नुकसान अर्थव्यवस्था को 1,17,253 करोड़ का नुकसान

तस्करी से राजस्व को भारी नुकसान... अर्थव्यवस्था को 1,17,253 करोड़ का नुकसान... राजस्व में भी गरीब कारोबार बढ़ा

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FICCI CASCADE Addresses COVID-19 Pandemic

COVID-19: PRODUCT FRAUD ALERT

Counterfeit, Falsified and Substandard Medical Products and Medicines



WARNING

Emergency response measures to protect people from the COVID-19 virus must include the urgent need to protect them from fake, falsified and substandard medical and healthcare products and medicines.

Ineffective, fraudulent products undermine public health and efforts to stem the pandemic. In the hands of citizens, infected patients and healthcare professionals, these illicit products heighten risk to exposure and create a false sense of security that accelerates the spread to others. Falsified versions of treatment options (such as Hydroxychloroquine and Azithromycin) will harm or kill already vulnerable patients.

Current shortages of medical and healthcare products are rapidly being exploited by criminal organisations in total disregard of patient health and safety. And while legitimate manufacturers are working overtime to keep up with demand, the availability of fakes and fraudulent products on the Internet is expected to increase dramatically, especially

with the closure of retail stores and the imposition of population distancing strategies.

Internet shopping websites and popular social media platforms are already vulnerable to fake and fraudulent product offerings misleading advertisements, and Interpol reports thousands of links to fraudulent advertising of COVID-19 related medical products.

Law Enforcement authorities in the US, UK, China, Germany, Uganda, France, India, Indonesia, Vietnam and elsewhere are taking action and have already begun seizing fake and falsified medical products. These are expected to increase as more illicit products enter the market.

PRODUCT ALERT – WHAT TO LOOK FOR

- Fake, falsified and substandard medical products and medicines: surgical masks, hydro-alcoholic gels, testing kits, thermometers, gloves, sanitizers and engineering monitors to measure body/head temperatures and treatment options currently explored such as Hydroxychloroquine and Azithromycin.





- Counterfeit, substandard healthcare and consumer products that are in exceptionally high demand because of the pandemic and the consequential lockdowns: cleaning solutions, toilet paper, anti-bacterial wipes, indoor sports equipment, refrigerators and freezers, food products and reading materials.

FOR IMMEDIATE ACTION

GOVERNMENTS

- Prioritize the response to fraud among COVID-19 emergency measures, allocate resources to blocking distribution of fake, falsified and substandard medical products and medicines. Reiterate these messages by top government officials.
- Increase vigilance to securing supply chains (e.g., warehouses, hospitals) for genuine COVID-19 related medical products and medicines targeted by criminal organizations.
- Warn consumers about the risks of fake and fraudulent products and medicines, especially online sales of COVID-19 related high-demand and quick-fix products.
- Warn businesses, especially small and medium-sized, about the dangers of buying products from unfamiliar or unauthorized supply chains.
- Step up collaborative work with Internet-based shopping websites and social media networks to accelerate prevention and removal of suspicious sales offers.
- Impose immediate sanctions on the manufacture and sale of fraudulent COVID-19 related products and pursue effective enforcement.

LAW ENFORCEMENT

- Establish a coordinated national strategy to deal with pandemic-related fraud.
- Increase vigilance for theft of targeted medical products and substandard and falsified medicines such as counterfeits, expired, tampered and illegally diverted medicines.
- Share intelligence and best practices and cooperate on cross-border investigations and enforcement actions with other jurisdictions and the private sector.

INTERNET PLATFORMS

- Increase policing and takedown of online offerings and advertisement of COVID-19 related medical products and medicines purporting remedy to COVID-19.
- Warn online shoppers of the insurgence of fake, fraudulent and substandard COVID-19 related products available on the subject platform.

BRAND OWNERS

- Support law enforcement by sharing data from compromised supply chains.
- Raise awareness about online shopping fraud and increase monitoring of online offerings of counterfeit and other illicit products.
- Increase vigilance to securing supply chains for genuine COVID-19 related medical products and medicines that are highly targeted by criminal organizations.
- Collaborate with health authorities and WHO by rapid reporting of all confirmed incidents of falsified medicines.



MEDIA COVERAGE

INDIAN NEWZ

FICCI CASCADE and TRACIT issues warning on illicit products during Coronavirus crisis

6 April 2020: FICCI CASCADE (Committee Against Smuggling and Counterfeiting Activities Destroying the Economy) jointly with The Transnational Alliance to Combat Illicit Trade (TRACIT) today issued a statement warning consumers about the risks and growing availability of fake, substandard and counterfeit medical, healthcare and other products.

Both organizations, known for mitigating illicit trade across industry sectors worldwide, report a surge in ineffective, fraudulent products that undermine public health and efforts to stem the COVID-19 pandemic.

SAMACHAR

FICCI CASCADE and TRACIT issues warning on illicit products during Corona virus crisis

By Desk - 05/04/2020

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फिक्की कास्केड और ट्रेसइट ने अवैध उत्पादों पर दी चेतावनी

नई दिल्ली, जेएनएन। फिक्की कास्केड (अर्थव्यवस्था को बर्बाद कर रही तस्करी एवं जालसाजी जैसी गतिविधियों के खिलाफ कमेटी) ने अवैध कारोबार से लड़ने के लिए अंतरराष्ट्रीय संगठन (ट्रेसइट) के साथ मिलकर एक बयान जारी किया है, जिसमें उपभोक्ताओं को झूठे, नकली और कम मानक वाले मेडिकल, हेल्थकेयर एवं अन्य उत्पादों की बढ़ती उपलब्धता और इनके खतरे के बारे में चेतावनी दी गई है। दोनों संगठन दुनियाभर में विभिन्न सेक्टर में अवैध कारोबार के खिलाफ काम कर रहे हैं। संगठनों ने रिपोर्ट में कहा गया है कि अप्रभावी, नकली उत्पादों की पहुंच बढ़ी है, जिससे लोगों की सेहत के सामने खतरा पैदा हुआ है और कोविड-19 महामारी के खिलाफ लोगों के प्रयास कमजोर हो रहे हैं।

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FICCI CASCADE, TRACIT warning on illicit products during coronavirus

Published: 06 Apr 09, 2020 @ 07:51 PM by Desk

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New Delhi: Both organizations, known for mitigating illicit trade across industry sectors worldwide, report a surge in ineffective, fraudulent products that undermine public health and efforts to stem the COVID-19 pandemic.

Anil Rajput, Chairman, FICCI CASCADE said, "Arresting the sale of illicit goods at the time of this unprecedented crisis needs our immediate and unwavering attention. It is well known that illicit trade exacerbates unemployment, bleeds

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FICCI CASCADE, TRACIT warning on illicit products during coronavirus

APRIL 06, 2020

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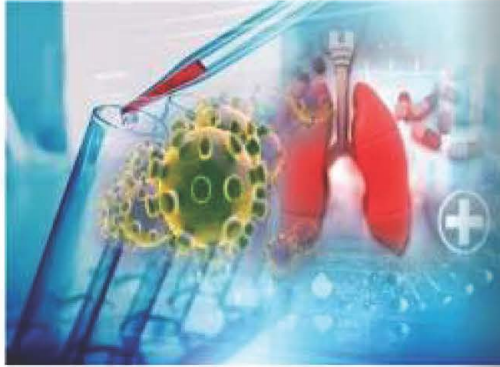
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Media Coverage

FICCI CASCADE, TRACIT warning on illicit products during coronavirus

POSTED BY: GOR APRIL 6, 2020



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FICCI CASCADE, TRACIT warning on illicit products during coronavirus

Source: IANS
Author: IANS
Last updated: Apr 7, 2020, 08:40:40



फिक्की ने नकली चिकित्सा उत्पादों को लेकर चेतावनी

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FICCI CASCADE, TRACIT warning on illicit products during coronavirus

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(MENAFN - IANS)

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FICCI CASCADE AND TRACIT ISSUES WARNING ON ILLICIT PRODUCTS DURING CORONAVIRUS CRISIS

Posted on April 6, 2020 by City Today News (City today media)

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FICCI CASCADE, TRACIT warning on illicit products during coronavirus

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Tracking news on illicit products during COVID-19

1. Coronavirus scare: Fake hand sanitizer plant busted in J&K

March 11, 2020 | Business Line

Drug Control Department of Jammu and Kashmir has ceased "fake" hand sanitizers, which were being supplied to the market in bulk amid coronavirus scare. The authorities have also sealed a re-fill plant in the Ganderbal district of J&K, where the fake sanitizers were being packed and transported to the market, as per media reports.

According to media reports, on Tuesday a complaint was received regarding fake sanitizers being supplied by a person across Kashmir. After this, two flying squads headed by Deputy Director Irfana Ahmad and Assistant Drug Controller Mohammad Younis raided various locations including an industrial unit in Srinagar.

https://www.thehindubusinessline.com/news/coronavirus-scare-fake-hand-sanitizer-plant-busted-in-jk/article31038148.ece#comments_31038148

2. Fake sanitizers seized in Gurugram, Mumbai and Srinagar

13 March 2020 | ABP News

Deadly Coronavirus is spreading its claws gradually but consistently. At such times, when humanity needs to be united in order to fight against the deadly COVID19, few people are trying to make easy money. This is why they had been making fake sanitizers and selling them.

Raids were conducted at such places and more than 3000 sanitizer bottles were seized.

<https://news.abplive.com/videos/news/india-fake-sanitizers-seized-in-gurugram-mumbai-and-srinagar-1174944>

3. FDA seize fake hand sanitisers from distributor in Kandivali worth Rs 2 lakhs

13 March 2020 | Afternoon Voice

The Coronavirus that is spreading rapidly around the globe has nearly infected 73 people in India and killed more than 4,500 individuals globally.

Taking advantage of the pandemic that is going round the world in the wake of the epidemic Coronavirus in the fear of which people are hurrying up to get to the chemist shop to buy products such as masks and sanitisers, some sellers and distributors of sanitisers and masks are taking advantage of the situation by selling fake and inadequate products.

<https://www.afternoonvoice.com/fda-seize-fake-hand-sanitizers-from-distributor-in-kandivali-worth-2-lakhs.html>

4. Bengaluru shops raided for selling hand sanitizers, masks at high price

15, March 2020 | The New Indian Express

BENGALURU: Over 200 medical shops were raided in the city for allegedly selling masks and hand sanitizers at exorbitant prices, cashing in on soaring demand due to Coronavirus outbreak, police said on Sunday. "On complaints from the public, we raided about 210 drug shops across the city on Saturday and stocks seized for selling masks and sanitizers at twice or thrice the retail price," Bengaluru crime branch deputy commissioner of police (DCP) Kuldeep Jain told IANS here.

The police also booked cases against many pharmacies for allegedly selling the essential medical items 2-3 times over the maximum retail price (MRP).

<https://www.newindianexpress.com/cities/bengaluru/2020/mar/15/bengaluru-shops-raided-for-selling-hand-sanitizers-masks-at-high-price-2117019.html>

5. Fake hand sanitiser racket busted in Hyderabad after 1 lakh bottles sold for Rs 1.4 crore

March 18, 2020 | India Today

Police seized 25,000 units of 100 ml sanitisers and raw materials worth Rs 40 lakh. Investigation has revealed that so far the accused have manufactured and marketed 1 lakh bottles worth Rs 1,44,00,000. A fake hand sanitiser manufacturing unit was busted on the outskirts of Hyderabad as police and drug inspectors seized batches of these fake products. Acting on a tip-off, sleuths of the Special Operations Team (SOT) of Rachakonda, along with police officers of Hyderabad and Ayush Drug Inspector from Telangana, raided the duplicate hand sanitiser manufacturing unit and recovered the fake products.

Police seized 25,000 units of 100 ml sanitisers and raw materials worth Rs 40 lakh. Investigation has revealed that so far the accused have manufactured and marketed 1 lakh bottles worth Rs 1,44,00,000.

<https://www.indiatoday.in/india/story/fake-sanitiser-racket-busted-in-hyderabad-after-1-lakh-bottles-sold-for-rs-1-4-crore-1656765-2020-03-18>

6. Gohana 50K masks, raw material seized

18 March 2020 | Tribune India

A team of the CM flying squad led by DSP Ajit Singh raided a floor tile showroom in Gohana on Wednesday and seized raw material and around 50,000 unhygienic masks being manufactured.

The raid was conducted following receipt of a tip-off that fake masks were being prepared illegally. Before the raid, Gohana Tehsildar Roshan Lal was included in the team as duty magistrate. Around 100 daily-wage workers were found preparing masks in two rooms. After seizure of raw material and masks, officials of various departments were asked to reach the spot. The DSP said the person reportedly involved in preparing masks was asked to reach the spot. He said legality of manufacturing masks would be confirmed after inquiry. — OC

<https://www.tribuneindia.com/news/gohana-50k-masks-raw-material-seized-57585>

7. Hoarding During Coronavirus: Masks, Fake Sanitisers Worth Rs 7 Lakh Seized in Maharashtra

March 20, 2020 | News 18

In a joint operation by Food and Drug Administration and the local crime branch, as many as 730 bottles of fake hand sanitisers and 18,900 masks were recovered.

New Delhi: In a crackdown against hoarding during the coronavirus outbreak, masks and adulterated hand sanitisers worth Rs 7 lakh were seized from a shop in Maharashtra's Jalna city, police said on Friday. In a joint operation, officials of the food supply office, Food and Drug Administration and the local crime branch raided Kalpana Emporium in New Jalna on Thursday night, crime branch chief Rajendra Singh Gour said. As many as 730 bottles of fake hand sanitisers and 18,900 masks valued at Rs 7 lakh were recovered, he said. A case has been registered against shop owner Hastimal Bamb for allegedly hoarding these masks and sanitisers, he added.

<https://www.news18.com/news/india/hoarding-during-coronavirus-masks-fake-sanitisers-worth-rs-7-lakh-seized-in-maharashtra-2543799.html>

8. Maharashtra: 3 lakh N95 masks seized from the godowns in Andheri and Bhiwandi which were to be sold in black market

24 March 2020 | OPI India

Amid the scare of the deadly coronavirus epidemic where the state is facing the shortage of masks and other essential commodities, the Maharashtra police seized masks in abundance from the godowns of Andheri and Bhiwandi which is being reported to be stored for black marketing. While talking to media, Home Minister of Maharashtra revealed that 25 lakh masks including 3 lakh N95 masks valued at Rs 15 crore were seized from godowns in Andheri and Bhiwandi. The masks were stored for black marketing.

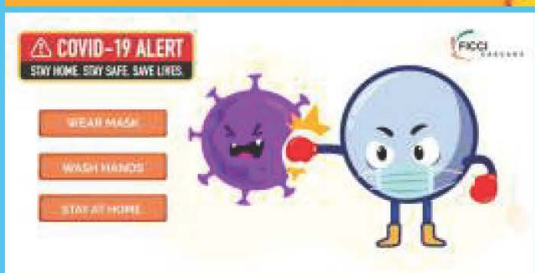
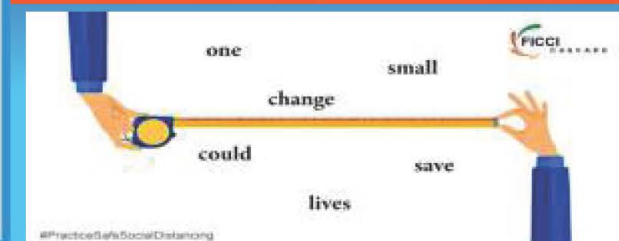
Anil Deshmukh said that 4 arrests have been made in this case so far while two accused have been absconding.

<https://www.opindia.com/2020/03/maharashtra-n95-masks-seized-black-market-coronavirus/>



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Excessive Taxation Harming Jobs, Health & Economy



P. C Jha
Former Chairman, Central Board of
Indirect taxes and Customs (CBIC) and
Advisor, FICCI CASCADE

The recent announcement by the government to increase levies on cigarettes in the form of National Calamity Contingent Duty (NCCD) has created significant uncertainty and anxiety for the legal cigarette industry. This decision comes at a time when the legal domestic cigarette industry is already facing a huge challenge from illicit and smuggled cigarettes. In-addition, this action will in all probability put additional pressure on the already serious job scenario in the country, and the tobacco industry which generates huge livelihood, and is highly labour intensive, especially the farming end of it, is bound to be adversely impacted by this step.

Already, job creation in India is a matter of great concern and a huge challenge. Job losses because of increase in smuggling and counterfeiting is not even on the radar of the policy makers of the country. In this context, FICCI CASCADE (Committee Against Smuggling and Counterfeiting Activities Destroying the Economy) for the first time in 2019 commissioned a study to identify the potential that lies in the containment of illicit trade in the country. In just five sectors, namely, Textiles, Tobacco Products (Cigarettes), Readymade Garments, Capital Goods (Machinery and Parts), and

Consumer (Electronic) Durables, there is a potential to create over 16 lakh additional jobs which are currently being lost because of smuggling of these items after taking into consideration backward linkages and multiplier effects of these sectors in the economy as a whole.

The impact of tax hikes on farmers' livelihood can simply not be overstated. Any increase in tax on cigarettes is damaging for the domestic industry. Already, the livelihood of 2.6 crore Indian farmers and farm labourers which include women and tribal people is under severe pressure due to high taxation. Their cumulative drop in earnings has been estimated at over Rs. 5,000 crore during 2013-14 to 2018-19. In fact, smuggled and illicit cigarettes are estimated to use 17 million kgs of unaccounted tobacco which ends up stealing precious Indian jobs to the farmers of other tobacco growing countries such as Malawi, Zimbabwe, Tanzania and many more.

The level of taxation on a commodity like tobacco products has also got direct bearing on the health of the people. Somehow, the government holds the view that by increasing tax rates on cigarettes, its consumption can be reduced and thus the health hazard to the people can be minimized. However, on the basis of available statistics from the government sources itself, it is clear that with the increase in tax rates on cigarettes, there is a commensurate rise in the share of grey market, i.e., increase in availability of unaccounted, untaxed, smuggled, counterfeit and other types of illicit products in the market which are made in unhygienic and unhealthy environment with no concern for quality. There is also no doubt that such products of proven inferior quality are much more injurious to health than the genuine tax paid products. It is an accepted fact that tobacco

products are injurious to health, and hence, there is a need to curb their consumption. Subjecting a health injurious product to an excessive unrealistic tax rate is an unwise policy of the government, since it does not result in meeting the stated objective of protecting health of the people, and on the contrary, it results in huge tax evasion and also causing more harm to public health by pushing the people to consume sub-standard cheap substitutes which are marketed openly without carrying the statutory health warnings.

The NCCD increase will further the incidence of cigarette smuggling in India. The rampant sale of smuggled and illicit cigarettes has a long list of ill effects which include the opening of the hawala route to transfer money, generation of black money which is a direct result of money laundering, and serious security concerns as there is a direct and established link between illicit trade and smuggling with terrorism. Top terror groups like Al Qaeda, Taliban, ISIS, Hezbollah and many more over the years have been using proceeds from smuggling and illicit trade to fund their nefarious agendas.

It is a matter of grave concern that the domestic tobacco industry is facing a huge challenge from illicit and smuggled goods. Estimates by the FICCI CASCADE study of smuggling based on consumption approach shows that smuggling of cigarettes has increased from Rs. 7,183 crore in 2015-16 to Rs. 7,729 Crore in 2016-17 and further to Rs. 8,750 crore in 2017-18, which results in 14 to 20 percent of output loss to domestic tobacco manufacturers. These statistics are based on data obtained either from government sources or international agencies such as UN COMTRADE. The tax burden on cigarettes (cumulative growth in rates of tax, after cognizing for the increase in rates of GST Compensation Cess) has trebled between 2012-13 and 2017-18, in addition to successive year on year increases in excise duty rates between 2012-13 to 2016-17 amounted to a compounded CAGR of 15.7 percent. Tax collections, however, increased only by 4.7 percent CAGR, clearly indicating sub-optimisation of revenue collections resulting from excessively high duty rate increases. In 2017-18, the GST rate, contrary to the Revenue Neutral principle, as promised by the government, significantly increased the tax burden on legal cigarettes by 19 percent.

Taxation has a very critical impact on volumes of both legal and illicit cigarettes. Policy makers often lose sight of the obvious fact that higher the rate of taxes, higher is the illegal profit in evasion. There has to be a perfect compatibility between higher rates of taxation and higher efficiency level of enforcement agencies to check evasion effectively. Therefore, striking a right balance in fixing tax rate is critical. While taxation on legal cigarettes was increasing, illicit and

smuggled trade in cigarettes increased from 21.8 billion sticks in 2013 to 26.4 billion sticks in 2018, a disturbing increase of 21 percent. Here it is important to state that stability in tax rates ensured that the illicit cigarette market grew, albeit at a relatively slower pace.

In India, unlike the west, cigarettes are only 9 percent of the total tobacco consumed, and 91 percent of the tobacco consumption is in non-cigarette as also illicit products. It is important to note that the tax burden on this overwhelming majority is almost negligible. In this context, it is critical to understand and underscore the tobacco consumption pattern in India. While the overall tobacco consumption in India has increased from 320 million Kg in 1981-82 to 544 million kg in 2017-18, it is essential to state that the share of legal cigarettes has come down from 86 million kg in 1981-82 to 52 million kg in 2017-18. This makes it clear that while tobacco continues to thrive, it is the legal cigarettes that continue to bear the brunt. International studies have shown that taxes on cigarettes in India are the second highest in the world and its prices in India are much more than of our neighbours and of many developed countries.

It would therefore be important to reconsider the decision to hike the taxes on cigarettes. This would serve in the best interest of the nation on multiple fronts, as this would result in increased revenue, greater job creation, addressing the health concerns, reigning-in anti-social elements and curtailing the generation of black money.



Learning from the World: Experience and Cooperation Amongst Nations needed to combat Illicit Trade



Najib Shah

Former Chairman, Central Board of
Indirect Taxes and Customs
Member, FICCI CASCADE Think Tank

The sobering fact that India does not rank high in the Global Illicit Trade Environment Index (GITEI), an annual study brought out by the Economist Intelligence Unit, and needs to take corrective action to bring down the risks of illicit trade raises troubling concerns for the policy makers. According to the Index based on four parameters, Government Policy, Supply and Demand, Customs Environment, and Transparency and Trade, India ranks 49 globally, and 9, in the Asia-Pacific -rankings which we can most certainly improve.

In the context of the growing menace of illicit trade worldwide—the World Economic Forum (WEF) estimates the global market of illicit trade to be about \$ 3 trillion by 2022. Here, the 6th edition of MASCRAGE, the acronym for the movement against smuggled and counterfeit trade, conducted under the aegis of FICCI's Committee Against Smuggling and Counterfeiting Activities Destroying the Economy (CASCADE) recently holds particular relevance. It has been pointed out by the WEF, that while everybody does express concern, the response to this problem has been disorganized and leaves a lot to be desired.

The continued success of the conference - MASCRAGE is testimony, both of the extent of the problem, and the contribution which this conference makes to policy makers and stakeholders engaged in combating this menace. The presence of two Union Ministers of State, the Hon Minister of State, Ministry of Finance Shri Anurag Thakur, and the Hon'ble Minister of State, Ministry of Home Affairs, Shri Nityanand Rai, both of whose departments are concerned with the problem, along with Shri Pranab Kumar Das,

Chairman of the CBIC, another key organization engaged in the fight against smuggling and counterfeiting, is indicative of the resolve of the government to effectively address this complex adversary, and find implementable solutions to blunt the impact of illicit trade.

The need of the hour today then, as brought out at MASCRAGE, is to proactively and conscientiously address the many issues exacerbating the state of the global problem of illicit trade and understand its visible outcomes and measurable impacts. There is also an immediate need for harnessing the potential of multilateralism through intergovernmental actions and of an effective monitoring and inspection of Free Trade Zones (FTZs) to ensure legitimate trade flows so that FTZs do not become 'hotspots' for illicit trade and organized crime.

Countering the beast of illicit trade not only requires an understanding of, and co-operation between institutions globally, but also the designing of effective global strategies and improving the regulatory framework. Unfortunately, no country can claim to have eliminated the problem-everybody has had varying degrees of success and all countries have paid a price. Trade in smuggling, contraband, counterfeit and pirated goods has risen steadily in the last few years and now stands at 3.3 percent of global trade. Hence, its existence and operation are broad in scope and large in value, impacting not only the global economy, causing losses to industry, government and society but are also adversely affecting the health and safety of the consumers, and is additionally facilitating an underground economy and organized crime. Tragically, illicit operators display greater cooperation between each other across countries than what governmental institutions do, both within a country and across borders. In order to understand the global dimensions of the illicit trade challenge so that a possible framework may be setup to tackle it, a few international experiences, all tabled at MASCRAGE may be reviewed.

According to Mr. Tim Sheppard, Counsellor (Australian Border Force), Australian High Commission, who spoke of Australia's approach to tackle the problem of tobacco smuggling and emphasized that if the risks are minimized upfront there will be less work for law enforcement officer to do. According to him, high tax rates on tobacco have actually incentivized tobacco smuggling. On a moderate investment, importing a container of illicit cigarette could provide a 5,000 percent return on investment without the same kind of fines or penal provision such as in narcotics. The Australian Government was cognizant of the problem and consequently increased the fines and prison terms for tobacco smuggling to 10 years of imprisonment and penalty to the tune of five times of duty avoided. Also, the close cooperation between the Australian Border Force and Department of Home Affairs, the Australian Criminal Intelligence Commission (ACIC), the Australian Transaction Reports and Analysis Centre (AUSTRAC), the Commonwealth Director of Public Prosecutions (CDPP) and the Australian Taxation Office (ATO) - has led to good results—more than 600 tonnes of illicit tobacco estimated to about AUD 600 million in evaded duty having been seized in last one year alone.

Talking about the Italian experience, Col. t. ISSMI Vincenzo Tuzi, Guardia di Finanza Attaché, Embassy of Italy, said that the number of unusual products that had been seized in recent times indicated the presence of large criminal organizations who kept a tab on markets and economics before starting producing market-specific counterfeit goods. To tackle such a scenario, Tuzi emphasized the need for every country to have the same penalties for certain kinds of fraud. This would facilitate cooperation in investigation. Italy, he mentioned has an anti-counterfeiting MIS in place which at an operational level allowed IPR holders to work actively with the law enforcement by sharing information about their products that could be a target for fraud. The system provides reports for the IPR holders on fraud and other information useful for the protection of their rights This database also provides useful feedback through data and risk analysis for various statistical purposes and has proven to be a starting point for further investigation projects on a tactical and strategic level.

According to Mr. Huw Watkins, Head of Asia Policy, Intellectual Property Office, UK and Mr. Julian Saldanha, First Secretary, HM Revenue and Customs, British High Commission, 2.5 % of exports worldwide were counterfeit goods as were 6.5% items used in IT and communication, that 4-5% of goods imported in UK were and that India ranked 6th in the world in counterfeit production. In this background, they felt that enforcement agencies need to look at the entire chain in the life cycle of counterfeit goods—from the placing of orders, to manufacturing, to shipping, to importation, to retail sale to wholesales, and reworking and transportation. This needs to be followed by an identification of areas in the chain where disruption of the illegal activity could be done. As per Watkins, while Free Trade Zones have been beneficial for trade, they have also been very vulnerable for criminals to exploit. In this regard he

emphasised that the UK IPO worked closely with Universities as knowledge and resource centres and that he would be interested in working closely with the Indian authorities on similar lines. On the issue of addressing online counterfeits, it was shared that UK would be signing an MOU with trading platforms in China/South East Asia to counter this growing problem.

Ms. Shilpi Jha, Senior Legal Counsel for Intellectual Property-South Asia, Embassy of the United States of America outlined some of the challenges that the US PTO faces while dealing with the SAARC countries and with India. Key amongst these were a Lack of awareness which was prevalent right from amongst consumers up to the government on not just IPR issues but also on industry and government initiatives in this area; a Lack of coordination among agencies especially given India's federal polity; Fear of losing /lack of trust as industries always fear that sharing too much of data with custom/police will cause information to leak out; and counter-wise the enforcement machinery feels that by doing too much work on behalf of the industry, the latter's responsibility will diminish.

To summarize, the chief takeaways on stemming and addressing the challenges of illicit trade are very instructive for India in its fight against this debilitating malaise. The Australian experience in tackling tobacco smuggling could be useful for India, as it is facing a similar challenge today. The possibility of developing an anti-counterfeiting information system in India on the lines of the Italian experience could be definitely explored. The strategy of examining each link in the counterfeit chain and tackling the weaker link to disrupt the chain, an approach adopted by the UKIPO could also be usefully examined by the Indian authorities. These authorities could also examine the role of SEZ's and find out whether there exist similar instances of such misuse. India could also consider MOU's with online trading platforms to sensitize them to the possibility of their being misused for the sale of counterfeit goods. The Indian authorities could relook at the present efforts at publicizing the ill-effects of buying smuggled and counterfeit goods and develop a more robust publicity strategy to this effect. Finally, issues such as a lack of trust, lack of cooperation amongst agencies, and lack of appreciation of the nefarious impact of counterfeiting are common to India. An institutional mechanism to address these challenges could also be explored.

In conclusion, I must admit that after hearing the initiatives adopted, I am confident that if we develop greater communication flow between nations, and between various enforcement agencies in our country, modify the many best practices according to the needs and situations prevalent in our country, and equip our enforcement agencies with the latest technological tools that keeps them ahead of the curve, then we will be able to weaken this adversary which has been damaging the economies and societies and compromising the safety and security of nations the world over.

Curbing Counterfeiting and Piracy in On-line Marketplace



Narendra Sabharwal
Former Deputy Director General,
WIPO (World Intellectual Property
Organization), Think Tank Member,
FICCI CASCADE and
Chairman FICCI – IP Committee

E-commerce in India has seen a phenomenal growth over the years. From USD 39 billion in 2017, it is projected to rise to USD 200 billion approximately by the year 2026. This comes on the shoulders of digital development in India, mainly the internet penetration and mobile phones where India has taken a leadership role and is propelling the growth of e-Commerce- the virtual marketplace in India. Last year the leaders in on-line space were electronics and apparels but now there are many more offerings such as travels, movies, medicines, hotel reservations, books, matrimonial services, electronic gadgets, cosmetics, footwears, fashion accessories and even groceries. The liberal FDI policy of Government of India, where 100% B2B in FDI has been allowed, is also fuelling the growth of this market.

This growth however comes in with a set of challenges. The menace of counterfeiting and pirated goods has remained the same if not more in the virtual marketplace. Online counterfeiting and piracy are IP crimes which affect most areas of IPR. E-Commerce sites are regularly being used as a common platform for sale of counterfeit goods; increasingly the same is also happening on social media platforms. Whether it is online or offline, the dangers to society remain legitimate market loss and occupation of economic space by unauthorised and grey market operators, causing loss of revenue to government, payment of extra taxes by common man, loss of jobs, threat to safety of consumers and also fuelling organised crime.

It was with the above perspective that I recently chaired a session in FICCI's annual convention MASCRAGE (Movement Against Smuggled and Counterfeit Trade). The session deliberated on the need for Policy and Regulatory framework to Stop Counterfeiting, Smuggling & Piracy from Entering the Virtual Marketplace with participation from key market leaders from industry, e-commerce platform owners and technology providers.

Sale of fake products on E-Commerce platform is rampant. While technology offers several solutions to authenticate the original product, the same technological tools particularly artificial intelligence aid to create a look-alike which makes it more difficult to distinguish between the original and its fake. Moreover, when e-Commerce players and brand owners get embroiled in on-going disputes, it is the counterfeiters who reap the benefits from the blame game between industry and e-commerce players. What is needed is constant upgradation and innovation to stay ahead of the counterfeiters. As far as government initiative is concerned, it is important that we have regulations for e-commerce.

A big step has been taken by government of India by bringing the draft e-Commerce policy which has indicated clear guidelines on the expectations from brand owners and e-Commerce players. It is for the first time that a government document has listed concrete steps for combating counterfeiting which categorically states that the seller detail should be made available on marketplace website for all products and the sellers must provide an undertaking to the platforms about the genuineness of products. Also, trademarks owners should be given the option to register with e-Commerce platform and that wherever a trademark product is uploaded for sale on the platform, it should notify the respective trademark owner. If he desires e-Commerce platform shall not list or offer for sale any of the owner's products without prior concurrence. In case of a complaint - within 12 hrs, it should be conveyed to the trademark owner and as soon as possible the product shall be withdrawn, and the site will be blocked. Additionally, in case of a customer making a complaint of counterfeiting post sale -return or compensation will be paid and financial disincentives for sellers if found to be selling counterfeit shall be prescribed.

Unlike the problem of physical piracy and counterfeiting, the piracy of content is easiest and the most damaging. It is easiest because the content of the original product is retransmitted and therefore there is no new creation, no infrastructure is required, no money is invested in creating content and the same content of the same quality is made available to everyone for free.

The extent of piracy varies across different segments of copyright like literary, sound recordings cinematographic and computer software. The majority of copyright infringement is done through illegal re-production of journals, magazines and books, video piracy, cable piracy, imitation and distribution of computer programs without the permission of original copyright holders, illegal downloading, file sharing and selling of pirated DVDs etc. There also has been an increase in external and mirror websites providing unauthorized content through third party applications.

Leading industries in on-line space have taken a host of measures such as 24*7 content monitoring and take downs, taking John Doe orders from courts, filling criminal cases etc. But this is not enough. For example, the film and television industry contributed a total of Rs. 33.3 billion to the Indian economy and supported over 2.36 million jobs in 2017. However, piracy remains a persistent and growing threat to this industry. Online copyright theft is a criminal enterprise which also affects consumers, and is susceptible to malware, identity theft and ransomware.

A 2016 study analysing 1143 pirating sites popular in India, found that large and medium pirate sites earned revenues of about 4 million and 2 million respectively and 361 advertisers in such sites were found to be in the high-risk category. The piracy of content is done on various popular social media platforms and internet websites, app stores and illegal streaming devices. Recently it was also found that a Wi-Fi enabled box is available in the market for about Rs. 1000-5000 which uses keys of a distribution platform to transmit all the television channels of all Indian broadcasters. Unfortunately, there is no mechanism in India where one can track down and block the last-mile subscriber whose box is being used for doing piracy.

One of the greatest difficulties in tackling content theft and piracy is the jurisdictional challenge. While laws have national boundaries, piracy is a global beast. One can sit on a non-compliant jurisdiction, upload content and make it available throughout the world. The laws of India will not be applicable; therefore, nothing can be done against the pirate. There is also a lack of an infringing website list. There is no mechanism in our country which prepares a list of infringing websites which are infringing content or physical goods-counterfeit products. There is a dire need for stakeholders (advertisers, brands, advertising agencies, content owner) to come together and create a list of infringing websites. This list can be made available to the advertisers, payment gateways and can be used for sensitizing people at large.

With the increase of online copyright theft in India, and the increasing losses of copyright holders, the Indian courts have

started taking strong cognizance of this offence. Recently the Delhi High Court in the case of UTV Software Communications & Ors. vs. 1337xTO and Ors. held that there is a need to prevent the cumbersome exercise of piracy by the subscribers which is the younger section of the society who are unaware of pirated content. The case was filed for violation of copyrighted work of film production companies. The court decided to ban the websites responsible for hosting, streaming, reproducing and distributing movies, music and other cinematographic works and directed Department of Telecommunication (DoT) and Ministry of Electronics and Information Technology (MEITY) to frame stringent policy and guidelines for ISP (Internet Service Providers) such as Reliance, Bharati Airtel etc in order to block the infringing websites.

A regular clean-up of key marketplaces and social media is also important. Strategies to efficiently use data and different technological tools available to figure out the key players and nip the problem at the source should be made. High value targets both manufacturers and whole sellers of counterfeit products must be identified on all e-Commerce platforms, whether it is B2B or B2C marketplaces, social media or mobile apps.

The government's draft e-commerce policy also addresses the issue of piracy stating that intermediaries shall put in place measures to prevent online dissemination of pirated content and shall identify trusted entities whose complaints are resolved on priority. Moreover, upon being notified by the owner of copyright regarding piracy of his content, the website or platform shall expeditiously remove or disable access to the alleged content. The guidelines also suggest that a body of industry stakeholders should be created that identify rogue websites and upon identifying the internet providers shall remove or disable access to the website within a set time limit.

Though the government guidelines list out steps for online counterfeiting and anti-piracy, it is evident that there is a need for greater collaboration both between the stakeholders as well as better regulation from the government. The Indian IP policy, which was released in 2016, emphasised on strengthening, enforcement and adjudication to combat piracy and counterfeiting. It further stated that that best practices need to be followed, technological tools and training of enforcement agencies needs to be done, judiciary needs to be strengthened, both for training as far as for strengthening their competence by opening more commercial courts to understand the intricacies of IPRs, tools and methodologies needs to be developed to find the extent of counterfeiting and piracy.

The focus must remain on creating an environment where we can continuously innovate, develop technologies to proactively prevent infringement within the marketplace, foster greater partnerships, have robust feedback mechanism, monitor the gaps and processes - all together build an eco-system to fight this hydra headed monster of counterfeiting and piracy.

PUBLICATION



6th Edition MASCRADE 2019 Movement Against Smuggled & Contraband Trade

Combating Counterfeiting, Smuggling and Piracy: A Winning Strategy



There is tremendous potential for India to create 5 lakh jobs, however, this will require...



Now, looking at some facts about exports regarding to India, which was addressed a session in the...

In fact, two more industries that have a massive impact on the economy, namely Pharmaceuticals and F&B, have been...

Under a development and modernisation agenda, India needs to create high value jobs...

In India and Digital India. These initiatives have proved to be effective. Applications and industry have been...

The widespread use of digital India, under the leadership of the Prime Minister, will be able to carry out...

For this to happen, it is not enough to have a good policy. It is also necessary to have...

It is important that India should be able to build a strong economic base, which...



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KEY DELIBERATIONS

are not aware, and that after creation of a use and adoption of...

to stop the creation of counterfeit and smuggling. A key aspect of the...

to stop the creation of counterfeit and smuggling. A key aspect of the...

show from the discussion of our distinguished guests that India's trade is emerging...

The success in the last few years, the period of last two years, the magnitude of F&B...

FICCI has been at the forefront of advocating policy framework to address aspects...

In order to address this, FICCI has been at the forefront of advocating policy...

to stop the creation of counterfeit and smuggling. A key aspect of the...

Facts and Figures

- 2016: 20% of exports are counterfeit. 4.5% items used in counterfeit. 4.5% items used in counterfeit. 4.5% items used in counterfeit.

The F&B sector remains a goal as described in the following steps



Outgoing: Where are they manufacturing goods? Manufacturing: Where are they manufacturing goods? Manufacturing: Where are they manufacturing goods?



There is a need to build more interaction with the industry and counterfeiting agencies as well as a strong...

FACT

communication, interception very difficult. All these organized criminals are now...

Heading of the website, its domain name, website's stable and secure operations is...

The viable alternative to VPN is to use a cloud-based web and deep web. The dark...

These days encrypted communication, the WhatsApp, Telegram, etc. are being used...

Cyber acts are not enough, or other related software tools and cyber acts are not...

International cooperation and sharing intelligence are important. Intelligence are...



Hon'ble Shri Uday Umesh Lalit, Judge, Supreme Court of India

Keynote address on Proactive Role of Judiciary within International Context: Counterfeiting and Smuggling: The need for Legislative changes

Several principles that the judiciary must adhere to in the process and will continue...

As per the government and reports the judiciary has been very active in the process...

Several principles that the judiciary must adhere to in the process and will continue...



RECOMMENDATIONS TO COMBAT ILLICIT TRADE

The government of India has taken several decisive steps to combat counterfeiting and smuggling, create awareness and protect the interest of the legal businesses and right holders. It is seen that the seizures of illicit goods are at an all-time high in India, indicating the willingness within the authorities to address this issue. In spite of several measures which are being undertaken, further steps are required, both in the form of policy intervention and awareness generation. With the above background, FICCI CASCADE would like to take this opportunity to submit the following recommendations to the concerned ministries to curb this growing hazard which is adversely impacting the socio-economic growth of our nation.

Cabinet Secretariat, Prime Minister’s Office

A. Setting up of a National Authority Against Counterfeiting and Smuggling

Industry and brand owners face a challenge whenever there is an enforcement issue with cases related to counterfeiting and smuggling. Currently, this issue lacks the desired attention from policy makers and lack of coordination amongst the various departments in the government. What is required is seamless flow of information, where enforcement agencies can come together (regulatory, the customs, the law & enforcement) and talk to each other for speedy enforcement so that the issue at hand can be handled efficiently and speedily.

Recommendation

FICCI would like to recommend setting up of a National Authority Against Counterfeiting and Smuggling. We feel this centralized body in the government could be able to ensure proper coordination amongst the concerned Ministries /Departments /Enforcement agencies. Other than handling speedy enforcement of cases, this agency could also work on the following:

- a. Regular monitoring of illegal activities and sharing intelligence
- b. Enhancing cooperation

- c. Making Policy recommendations
- d. Capacity building
- e. Liaison with national and international bodies
- f. Single window for receiving complaints
- g. Interface with Industry

Ministry of Consumer Affairs

A. Awareness Generation

Continuous awareness generation on the ill impact of counterfeit and smuggled products is the key. Endless repeating of the message will educate the consumer about potential risks and detrimental impact of buying and using such products on oneself and on the society. Counterfeits and illegal products cannot exist if consumers reject them.

Recommendation

1. In order to undertake this activity, further impetus is needed to the Ministry of Consumer Affairs campaign “Jago Grahak Jago”, by restructuring this campaign with reference to fake, smuggled and spurious products. The campaign could be designed to include the following messaging:
 - Take a bill on every purchase. This will ensure that the product is genuine and tax paid.

- Every time a counterfeit or smuggled good is purchased, the country is cheated of revenue and the consumer is fooled into believing that what he or she is buying is genuine as only genuine and authentic products ensure quality, purity and safety.
 - Illegal trade involving counterfeiting and smuggling has far reaching impact on the economic growth of the country, increases black money, has linkages to terrorism, leads to environmental degradation, and lowers research and development.
 - With every purchase on bill consumers are making this nation tax compliant and doing their part towards progressive nation building.
2. The police authorities can also play an active and important role in creating awareness in general consumers. A campaign/advertisement by the London Police is worth sharing here: 'Wake up, not Fake up' - warning consumers of the risks posed by fake beauty products. In India too, the police could launch a campaign on similar lines alerting the consumers against buying fake/smuggled and spurious products.

Ministry of Finance

A. Institutionalized Incentive Program

In the current reward scheme of the Central Board of Indirect Taxes and Customs (CBIC), monetary rewards are given to informers and enforcement officers for their role in detection and further follow up actions in cases of smuggling. The quantum of reward available for distribution is linked to sale proceeds of smuggled goods.

Recommendation

1. There are established and popular reward schemes recognized by CBIC, which helps in not only curbing the illicit smuggling of gold and narcotics by the Customs officials but also in reaping benefits of detention of these goods. In view of the large number of cases of imports of spurious / counterfeited / smuggled goods, an incentive-based scheme could be introduced by the CBIC for the officers of the department who play important role in detection / investigation of the cases of IPR violations.
2. In cases of tobacco products, since such products are not sold but destroyed on conclusion of the case, therefore, no sale proceed amount is available for giving monetary reward. This position needs to be changed as it has become a disincentive in booking offence cases in respect of such goods. A reward scheme could be put in place for tobacco on the same lines like narcotics and psychotropic substances which are also destroyed after seizure. The amount of reward in such cases could depend on a flat rate linked to the quantity of goods seized and the gravity of offence involved.
3. Provision for rewards to police officers for dealing with crimes relating to counterfeiting in the same way as there is provision for reward for dealing with cases of smuggling. This will act as an incentive for the authorities to take this up more seriously.

B. Coordinated Approach is the Need of the Hour

When the tax rate on any item is unreasonably high (eg: cigarettes, alcoholic beverages, luxury goods etc.), then there is

higher incentive available in evading tax. Higher tax arbitrage results in increased volume of tax evaded products in the market. For containing smuggling, the enforcement agencies require additional resources. It is seen that if tax level on any item becomes increasingly high, it results in increased level of smuggling and counterfeiting and the enforcement agencies are unable to keep pace or stay ahead of the curve. In this backdrop, this critical enforcement related issue has to be kept in mind by the policy makers while taking decisions at the time of raising tax rates. However, this does not happen in practice, and as a result, serious damage is done to the economy and its most precious resource i.e. the people of the country due to the growth of illicit trade.

Recommendation

We have landed in a situation where the lack of balance in the tax rate and the level of enforcement has resulted in a huge increase in the size of the grey market. It is therefore recommended that the government must check the level of taxation on the high taxed goods to avoid the consistently increasing tax evasion. In this regard, there must be greater synergy between those who decide the tax levels and the enforcement agencies to check tax evasion.

C. Infrastructure, Resource and Capacity Building

Capacity building in terms of skill, infrastructure and technology amongst the law enforcement agencies is important in improving the detection and investigation mechanism. At present, of the total imports into India, only about 15% are being subjected by customs to physical examination, whereas, the remaining 85% of the imports are cleared based on self-assessment by importers without any physical check of goods by customs. No doubt, the task of customs in such cases becomes difficult since it has to maintain a delicate balance between the conflicting considerations of ensuring trade facilitation on one hand and addressing the security and revenue concerns on the other.

Recommendation

It is recommended to modernize the infrastructure and equipment's being used by customs be looked into expeditiously so that foolproof methods of clearance of goods are introduced, thereby raising the capacity of Indian customs. Also, it has been seen that almost 90% of counterfeits come from China. With advanced infrastructure/technology, the probability of detecting counterfeits/smuggled goods coming from China, irrespective of how they are declared or how they are coming can be improved.

Ministry of Home Affairs

A. Infrastructure, Resource and Capacity Building

Capacity building in terms of skill, infrastructure and technology amongst the law enforcement agencies is important in improving the detection and investigation mechanism. For police officers – Economic offences / IP crimes are not a priority area, since they are fully occupied with the investigation of heinous crimes and are responsible for maintaining day to day law and order in their jurisdiction. As a result, there is a resource crunch for handling such cases. Moreover, they have little exposure to crimes related to intellectual property and special provisions contained in the enforcement of the IPR laws.

Recommendation

1. It is felt that knowledge of legal provisions related to IPR laws is necessary for efficient investigation and successful prosecution. It is, therefore, necessary to impart special knowledge to the investigating officers through regular capacity building under economic offences and IP crimes.
2. Since the existing police staff's ability to handle the day to day crime and law and order duties is stretched and there are no dedicated officers in these cells to deal with such cases exclusively, it is suggested that additional manpower with the desired aptitude to be provided in these cells (Special cells, District Investigation Units, Economic Offences Wing) to focus exclusively on the investigation of these IPR related cases.

A. National Legislation on Organized Crime

Globalization, liberalization of economies, lifting of international trade barriers and revolutionary advancement in technology has made the problem of organised crime more acute and almost intractable. Illicit trade and transnational organized crime are interlinked. It restricts economic growth, individual prosperity, and corporate profitability. Transnational organized crime has close links with criminal syndicates, both at national and local levels. Such links result in trafficking of people and goods; and support international terrorism. This illegal business operation represents 10 per cent of the global trade and has rightly been termed as the prime criminal activity of the 21st century by the FBI.

Recommendation

Different jurisdictions have defined organised crime in a different manner. India does not have a national law on organized crime. Maharashtra was the first state to enact Maharashtra Control of Organised Crime Act in 1999 (MCOCA) to combat organised crime and terrorism. In order to curb the increasing crimes of the organised gangs this law was extended in National Capital Territory of Delhi, Karnataka and Arunachal Pradesh but a national law is still not in place. The facets of organised crime in India particularly the transnational organised crimes are drug trafficking & drug abuse, smuggling & hawala transactions, money laundering, terrorism and narco-terrorism. The effective enforcement of laws is required to holistically curb the problem of transnational organised crime. It is recommended that the Government could look at having a National law to control and combat this organised crime as a long-term agenda.

B. Checking Notorious Markets

Retailers and wholesalers selling fake, counterfeit and smuggled goods operate freely in many well-known parts of the national capital having established business over many years. Delhi's Gandhi Nagar, Kashmere Gate, Palika Bazaar, Nehru Place, Ghaffar Market and Sadar Bazaar and Chennai's Burma Bazar are some markets who have been labelled as "notorious markets" in global piracy and rife in counterfeits selling apparel, footwear, automobiles and auto parts, electronics, leather goods, mobile phones, CDs and DVDs, and luxury goods.

Recommendation

It is recommended that the enforcement authorities take sustained and coordinated action against such notorious

markets. Moreover, creating picket posts to effectively monitor and undertake necessary enforcement in the notorious markets could be undertaken.

Ministry of Law and Justice

A. Deterrent Penal Provisions

At present, it is found that the penal provisions provided in the applicable laws such as Copyright Act, 1957 and the Trade Marks Act, 1999 are not adequate; the investigation, prosecution and the culmination of the trail takes unduly long time. These concerns need to be addressed. Under both the Trademarks Act and Copyright Act the punishment provided for the first offence is a fine of not less than rupees 50,000/- and not more than rupees 2,00,000/- and imprisonment of not less than 6 months and not more than 3 years; and for subsequent offences monetary fine of rupees 1,00,000/- to 2,00,000/- and imprisonment of 1 year to 3 years. The above fine and punishment is not sufficient to create the desired deterrence to curb the increasing instances of violations. It has been proven statistically and through studies such as from the Interpol that counterfeiters are hardened criminals. Though there are provisions in the law and actions are taken against the criminals but many times it is seen that these criminals go back and carry on the illegal activity which only proves that the punishment is not deterrent enough. Moreover, it is important to have certainty about infliction of penalty which will create the much-needed deterrent effect for such criminals/repeat offenders.

Recommendation

1. It's time to recognize counterfeiting as a criminal offence under IPC. Extant bail provisions are not severe - bail to be granted on execution of exorbitant security so that it becomes very difficult for illegal operators to undertake such activity. For repeat offenders making the offence non-bailable may be considered.
2. Imprisonment should be more rigorous than at present. Consider enhancing the punishment to 1 – 5 years.
3. Stringent monetary penalty for the offences - It is suggested that like the Customs Act, 1962 the fine under the Trademarks Act and Copyright Act may be increased up to the value of the goods involved and enhance imprisonment up to 5 years. By way of illustration it may be noticed that punishment under the Customs Act is extended up to 7 years.

A. Need for a Proactive Judicial Approach

The judiciary has a significant and pivotal role as an interpreter of law to combat counterfeiting and smuggling and prevent the resultant damage to brand owners. There is enough scope by judiciary to adopt a proactive approach to fill in the legislative vacuum and the loopholes. This is justified specially when it is done to attain the objective of curbing socio-economic crimes affecting and plaguing the economy. There is a dire need of judicial sensitivity in recognizing counterfeiting, smuggling and violation of IP rights as acts against the economy. Having a cascading adverse effect on the growth of domestic industry.

Recommendation

1. An essential element for an effective enforcement of any law is expeditious investigating of cases and ensuring

prosecution in a time bound manner. To ensure expeditious completion of adjudication proceedings in such cases, it may be prescribed that adjudication proceedings as far as possible must be completed within one year after its initiation. With a view to reduce the number of adjudication and prosecution proceedings there is a need to put in place the ADR (alternate dispute resolution) mechanism whenever the offence is compoundable.

2. In spite of judicial reforms, the country is encountering a litigation explosion. India is faced with elephantine backlog of cases, inadequate number of judges, judge population being 17-18 judges per million vis a vis 70-100 per million in jurisdictions of developed nations. We have been striving for judicial and legislative reforms to reduce these arrears including creation of specialized tribunals for specialized subjects. Tribunals may be headed by a judicial member supported by a technical expert. Moreover, there should be capacity building by judiciary for commercial courts and specialized tribunals to be manned by specially trained judges to decide IP and related matters.
3. Appointment of members of IP tribunal, appellate boards and the IPAB so as to fill in the vacancies well in advance.

Ministry of Commerce and Industry

A. Revision of Definition under Trademark Act

Under Article 51 of the TRIPS Agreement, there are the below two definitions relevant for this purpose –

- i. "counterfeit trademark goods" shall mean any goods, including packaging, bearing without authorization a trademark which is identical to the trademark validly registered in respect of such goods, or which cannot be distinguished in its essential aspects from such a trademark, and which thereby infringes the rights of the owner of the trademark in question under the law of the country of importation;
- ii. "pirated copyright goods" shall mean any goods which are copies made without the consent of the right holder or person duly authorized by the right holder in the country of production and which are made directly or indirectly from an article where the making of that copy would have constituted an infringement of a copyright or a related right under the law of the country of importation.

Below is Section 2(h) of the Trademark Act,

"deceptively similar", - A mark shall be deemed to be deceptively similar to another mark if it so nearly resembles that other mark as to be likely to deceive or cause confusion.

Looking closely, it is seen that the definitions under TRIPS agreement particularly talks about "country of importation" which is missing under the Indian Trademark law. Section 28 of IPC defines a counterfeit. However, since it takes its strength from the Section 2(h) of the trademark act. Hence, Section 2(h) should include 'counterfeit' in any form which is currently absent in the existing definition.

Recommendation

The scope of Section 2(h) of the Trademarks Act needs to be widened so as to bring it in consonance with the definitions of the TRIPS agreement which is very specific in terms of the acts

that will constitute counterfeit goods and pirated copyright goods, it is recommended that there should be revision in the definition under the Trademark Act keeping the above in mind.

B. Online Counterfeiting

The menace of counterfeiting and pirated goods is the same if not more in the virtual marketplace. E-Commerce sites are regularly being used as a common platform for sale of counterfeit goods, increasingly the same is also happening on social media platforms. Internet is providing any small seller sitting out of his garage the ability to supply these counterfeit products- globally, anonymously and everything is available to the customers at the click of the button. The cross-border sales are expected to triple in next 6 years driven by e-Commerce and the growth of mobile commerce. As far as government initiatives are concerned, a comprehensive e-commerce law is in the making.

Recommendation

1. Regular exchange of information between government, industry and e-commerce players for the e-commerce policy.
2. Creation of a centralized body/system for collating the take downs from e-commerce players to build a database of illegal traders on the platforms.
3. MOU's with international online platforms to enable the exchange of information of counterfeit products and to sensitize the platforms from being misused for the sale of counterfeits.

Ministry of Small and Medium Enterprises

A. Rehabilitation Programme

While counterfeiters run this business knowingly that it is illegal, for small traders, this kind of activity could be means of livelihood. Sometime these traders are not even aware that what they are doing is illegal.

Recommendation

It is recommended that the government could look at some rehabilitation programmes for small traders where they are given some parallel employment opportunity.

Ministry of Electronics and Information Technology

A. Anti-Counterfeiting Information System

The Italian government has an in-house anti-counterfeiting system which at an operational level allows IPR holders to work actively with the law enforcement by sharing information about their products that could be a target for fraud. This system on a quarterly basis generates reports for the IPR holders on fraud and other information useful for the protection of their rights.

Recommendation

It is suggested that India could also on the lines of the Italian experience, have an anti-counterfeiting information system in place which would give useful feedback, and help in further investigations, on a tactical and strategic level.



GUEST COLUMN

GS1 India Empowers Consumers, urges them to 'Scan Before Purchase', via 'Smart Consumer App'

- **Smart Consumer Mobile App Report states 2.5 times increase in the total number of scans in March.**
- **The highest number of monthly scans belong to the food category**

Mr. Ravi Mathur, CEO, GS1 India

In the current scenario when the world is hit by these challenging times, the concern related to consumption, food safety has become of prime importance to all.

The Smart Consumer App by GS1 India is helping consumers obtain reliable product information with a simple barcode scan. With this, consumers can easily access complete product information, such as product's shelf life, image, MRP, ingredients, FSSAI/other license validity, etc., which are directly uploaded by manufacturers, hence bringing transparency and reliability to what is being purchased and consumed.

The app also comes handy in case the information on the product label is too small to read, illegible or insufficient, causing hindrance in making right purchase decisions. It is a simple process wherein a consumer uses the Smart Consumer App to scan the barcode starting with 890, at the back of any product.

As soon as one scans the barcode, the details as mentioned above are reflected on the mobile screen. The quick information empowers a consumer to make informed buying decisions, keeping in mind the safety and assurance that they get around the uploaded product information.

The information is authentic as it is directly uploaded by the manufacturer of the product. The app acts as a one stop solution for accessing the information of products across categories digitally, by a simple scan.

As per the **Smart Consumer mobile app report, the total number of scans on the 'Smart Consumer App' in the month of March rose sharply by 2.5 times**, as compared to the last few months. It further implies that consumers are becoming more conscious of what they consume. **The highest number of scans, above 74k, are of products falling under the food category, followed by personal care (30k) and household items (25k).**

The above figures are a testimony that in today's times, the consumers are more aware and receptive to adapt to the newer ways of staying updated and alert while they go out shopping or consume a product.

'Smart Consumer app' also enables consumers to share feedback on products, directly with their manufacturers. This feature built in the app provides an added advantage for the consumers as they do not need to undergo a tedious process to share any feedback/complaints regarding any product, hence bringing power at their fingertips. With one click within the app, the feedback reaches the manufacturer for their further action on the same in real-time.

AWARENESS THROUGH ART



Awareness Through Art



INTERNATIONAL NEWS

1. \$300,000 Worth of Counterfeit Makeup Seized

12, January 2020 | Nbclosangeles

More than \$300,000 worth of counterfeit makeup was seized from the Downtown Los Angeles area this week, according to police. Previous tests of counterfeit makeup showed animal feces and hazardous chemicals in the makeup. Among the counterfeit makeup was counterfeit Kylie Cosmetics products, Kylie Cosmetics Lip Kits and Too Faced makeup palettes. Police advise buyers to purchase makeup from an authorized retailer.

<https://www.nbclosangeles.com/news/local/300000-worth-of-counterfeit-makeup-seized/2289240/>

2. \$460,000 in fake Air Jordans, UGGs, Rolexes and more seized in Greensboro; five arrested

20, June 2019 | Illicit Trade

GREENSBORO — State agents seized \$460,000 worth of counterfeit products — Air Jordan shoes, UGG boots, Rolex watches, Gucci handbags and pirated CDs and DVDs — at a Greensboro flea market Saturday, according to the N.C. Department of the Secretary of State. The estimated retail value is the amount the genuine trademarked items would sell for, the agency said Thursday in a news release.

https://www.journalnow.com/news/crime/in-fake-air-jordans-uggs-rolexes-and-more-seized-in/article_b440a624-5822-5668-8597-05f13dcba8c.html

3. Drugs, makeup and 200,000 illegal cigarettes seized from shops and cars in Walsall

17, January 2020 | Birmingham Mail

More than 200,000 illegal cigarettes, prescription drugs and cosmetics have been seized during an operation in Walsall. Around 27kg of hand-rolling tobacco was also secured during the operation, which saw the illicit items being taken from shops and vehicles across the borough. Walsall Council's Trading Standards team didn't disclose the location of the seizures, which took place on Thursday, January 16.

<https://www.birminghammail.co.uk/black-country/drugs-makeup-200000-illegal-cigarettes-17586158>

4. Seven million counterfeit cigarettes seized by police in Limburg

21, January 2020 | The Brussels Times

Special units of the federal police seized seven million counterfeit cigarettes during a raid in Lanaken on Monday afternoon. Assisted by members of the Limburg Special Assistance Unit-Tactical intervention group, the special units raided two industrial sheds- one in Smeermaas and one in Gellik- in part of a major investigation into cigarette fraud. Having recently discovered the storage sites for the counterfeit cigarettes, Genk customs requested that police raids take place, as there was reason to believe that the storage sites would be guarded by armed men, Het Belang Van Limburg explains.

<https://www.brusselstimes.com/all-news/belgium-all-news/98140/belgiums-coronavirus-emergency-plan-what-does-it-mean/>

5. Italian Police Seize 1 Million Liters of Counterfeit Wine

22, January 2020 | Vinepair

Italian police seized over one million liters of counterfeit wine during a series of dawn raids in the northern region of Lombardy. Five were arrested in connection with the production of fake Oltrepò Pavese DOC and PGI wines, Meininger's Wine Business International reports. The confiscated bottles contained extra sugar, prohibited grape varieties, and additives to mimic the flavor and aroma of real Oltrepò Pavese wines. Numerous cases were also falsely labeled "organic." The resulting product was not harmful, according to prosecutors, "just fraudulent."

<https://vinepair.com/booze-news/italian-police-counterfeit-wines/>

6. Bureau of Customs seized P20-B smuggled goods in 2019

28, January 2020 | UNTV

The Bureau of Customs (BOC) has seized a total of P20.58 billion-worth of smuggled goods, mostly counterfeit goods, illegal drugs and tobacco products, in 2019. The BOC said it was able to apprehend P9.44 billion-worth of counterfeit products, P3.59 billion-worth of illegal drugs, and P2.67 billion worth of cigarettes and tobacco products. The rest are from agricultural goods (P398.47 million), general merchandise (59.87 million), vehicles and accessories (106.55 million), used clothing (P66.86 million), steel products (P78.59 million), electronics (P21 million), goods and firearms (P815,000), currency (P35 million), and other products (P4.1 billion).

<https://www.untvweb.com/news/bureau-of-customs-seized-p20-b-smuggled-goods-in-2019/>

7. Authorities seize P58 million of fake, smuggled cigarettes

29, January 2020 | CNN Philippines

Metro Manila (CNN Philippines, January 29) – Authorities have seized over P58 million worth of illegal cigarettes in Caloocan City, the Bureau of Customs said Wednesday. A BOC statement said 1,670 cases of suspected counterfeit and smuggled cigarettes were confiscated by Philippine Coast Guard, Caloocan police and Customs personnel on Tuesday in Barangay 168. The illegally imported products with supposed brands Marvels, Fortune, D&B, Mighty and Jackpot were stored in nine trucks, BOC said.

<https://www.cnnphilippines.com/news/2020/1/29/smuggled-cigarettes-in-Caloocan.html>

8. Feds seize over \$123 million worth of counterfeit Super Bowl merchandise

02, February 2020 | CNN

Federal officials seized an estimated \$123 million worth of counterfeit sports goods for teams playing in the Super Bowl ahead of Sunday's big game in Miami. In a statement, Immigration and Customs Enforcement said officials found more than 176,000 counterfeit sports-related items during Operation Team Player. Agents with the Customs and Border Protection along with ICE's Homeland Security Investigations and Miami-Dade officers seized the counterfeit items from flea markets, retail outlets and street vendors over the past week as part of the effort.

<https://edition.cnn.com/2020/02/02/us/cbp-fake-superbowl-merchandise-seized/index.html>

9. C-TOC seizes over \$7 million worth of counterfeit goods MoBay

21, February 2020 | Loop Jamaica

Members of the Counter-Terrorism and Organised Crime (CTOC) arm of the police force, acting on intelligence, carried out a raid at a store in Montego Bay, St James on Thursday, during which they seized counterfeit goods valued at over \$7 million. The raid, which was carried out at a store operated by Chinese nationals on Barnett Street, netted shoes, bags and other items. Speaking with reporters, Assistant Superintendent Victor Barrett revealed that charges are coming for the store operators.

<https://www.loopjamaica.com/content/c-toc-seizes-over-7-million-worth-counterfeit-goods-moba1>

10. Over 12 million illegal cigarettes and thousands of litres of alcohol taken off the streets

23, February 2020 | Examiner Live

More than 12 million illegal cigarettes, thousands of litres of alcohol and 2,000 kilos of tobacco have been taken off the streets. The incredible amount of illegal products has all been seized from across Yorkshire within nine months. Officers from HMRC's Mobile Enforcement Team (MET) seized 12.2 million cigarettes and 2,032 kilos of hand-rolling tobacco.

<https://www.examinerlive.co.uk/news/local-news/over-12-million-illegal-cigarettes-17793124>

NATIONAL NEWS

1. Fake apparel selling, eight traders held

12, January 2020 | The Times of India

Vadodara: Eight traders were arrested from Tibetan Market at Rajmahal Road on Saturday for selling duplicate apparels as original ones of popular brands. The prevention of crime branch and officials of a major corporate security jointly raided some stalls at the Tibetan Market on receiving information of sale of counterfeit branded clothes. Police said that of the several stalls, nine stall owners were found to be selling the duplicate clothes. I think inspector has not seen Chinese fake goods flooded in India and his intention was solely to hurt those poor traders.

<https://timesofindia.indiatimes.com/city/vadodara/fake-apparel-selling-eight-traders-held/articleshow/73208868.cms>

2. Fake cigarettes on rise in Kerala

16, January 2020 | Mathrubhumi

Kochi: Sale and consumption of fake cigarettes are increasing alarmingly in Kerala. It is learned that these fake cigarettes are being sold in the state as Chinese cigarettes. "The fake cigarettes are transported to Tamil Nadu through ships from Sri Lanka and Malaysia. From Tamil Nadu, it is taken to Kerala. The fake cigarettes are transported to Ernakulam via Idukki and collected at a godown in Perumbavoor," reported excise officials. Sale of fake cigarettes without paying the tax incurs huge revenue loss to the state government. At the same time, use of these cigarettes will lead to serious health issues too.

<https://english.mathrubhumi.com/news/kerala/fake-cigarettes-on-rise-in-kerala-1.4448140>

3. Misbranded cosmetics seized from shop

17, January 2020 | The Hindu

A two-member team of the Drugs Control Department conducted a raid and seized four different varieties of misbranded cosmetics from a shop at Alliance Residency, Menaka, on Thursday. Among the items seized were 60 bottles of soft gelatin capsules, 62 bottles of Vitamin E capsules, henna powder, and aloe vera gels. The raid was conducted by the Drugs Control Department based on a petition received from a resident of Malappuram who complained of having developed allergy after using a hair oil that comes in gelatin capsules bought from the shop.

<https://www.thehindu.com/news/cities/Kochi/misbranded-cosmetics-seized-from-shop/article30580185.ece>

4. Mumbai: Gutkha worth Rs 2.74 crore seized from godown in Bhiwandi

20, January 2020 | The Free Press Journal

Mira-Bhayandar: In a prize catch for the Food and Drug Authority (FDA) authorities, a huge consignment of gutkha worth more than Rs 2.74 crore was seized from a godown in the Kharbao area of Bhiwandi on Friday. Based on a specific tip-off, a team led by food safety officer ManekJadhav along with the local police swooped down on the godown. One person, identified as Amar Bahadur Ramkhilawan Saroj, a resident of Kashmirira, was taken into custody. His accomplices, Umakanth Kathe, Faizal and Raju Gupta, managed to evade the dragnet. Upon checking the premises, the FDA team found hundreds of gunny bags stashed with thousands of sachets of tobacco laced and other banned products.

<https://www.freepressjournal.in/mumbai/mumbai-gutkha-worth-rs-274-crore-seized>

5. DRI seizes smuggled gold, silver, cash worth Rs 6.42 cr

25, January 2020 | Outlook India

Kolkata, Jan 25 (IANS) In a multi-pronged operation, Directorate of Revenue Intelligence sleuths have busted a smuggling syndicate and seized over 10 kgs of smuggled gold, around 429 kgs of silver and Rs 20.16 lakhs in cash with the total value of the seizure reaching Rs 6.42 crore. Two persons were arrested, a DRI official said on Saturday. Acting on intelligence inputs that a syndicate under the control of one Anurag Jalan was actively involved in smuggling of gold in biscuit form from Bangladesh through the Indo-Bangladesh border in 24 Parganas North district, which they melted and changed into bar form. The DRI sleuths searched three premises in central Kolkata's Burrabazar on Thursday.

<https://www.outlookindia.com/newscroll/dri-seizes-smuggled-gold-silver-cash-worth-rs-642-cr/1717641>

6. Foreign cigarettes worth Rs. 6 lakh seized, two held

25, January 2020 | TheSiasat Daily

Hyderabad: The sleuths of Central Zone Task Force along with the Gopalapuram police on Friday arrested two suspects and seized 12 boxes of foreign cigarettes, three cell mobile phones, and cash Rs. 700 all worth Rs. 6 lakh from their possession. The accused has identified as G Venkatesh (40) resident of Malkajgiri and E Praveen (25) resides in Chilkaguda, tip off, the police nabbed them at parking area of the Secunderabad Railways Station when they were trying to transport the land in a train.

<https://www.siasat.com/foreign-cigarettes-worth-rs-6-lakh-seized-two-held-1804281/>

7. Gold, foreign currency, and cigarettes seized at RGIA

30, January 2020 | The New Indian Express

HYDERABAD: Two persons who arrived at the Rajiv Gandhi International Airport (RGIA) from Delhi were nabbed by the air intelligence officials on Wednesday for attempting to smuggle foreign currency to Dubai through a Delhi-bound flight. Foreign currency in various denominations equivalent to Rs 16.5 lakh was recovered from them, officials said. In another case, acting on a specific report, the authorities seized foreign cigarettes illegally being transported into the country. Ten cartons of cigarette packets were seized from 10 passengers who arrived in Hyderabad from different locations including Malaysia, Cambodia, and Dubai. The seized property is worth `50 lakh, officials said.

<https://www.newindianexpress.com/cities/hyderabad/2020/jan/30/gold-foreign-currency-and-cigarettes-seized-at-rgia-2096377.html>

8. Textiles sector vulnerable to increasing counterfeiting

17, February 2020 | SME Times

Ramesh Chand Meena, Minister for Food, Civil Supplies & Consumer Affairs, Government of Rajasthan, today said that crimes related to counterfeiting and smuggling have increased across the world. He made the observation while speaking at FICCI CASCADE (Committee Against Smuggling and Counterfeiting Activities Destroying the Economy) seminar on 'Containing Counterfeiting and Smuggling - A Step Towards Prosperous Nation Building'.

<http://www.smetimes.in/smetimes/news/top-stories/2020/Feb/17/counterfeiting-textiles50625.html>

9. Opinion: It's time to call a fake a fake

20, February 2020 | Economic Times

The Indian automotive industry went through some tough times in the year 2019. The double digit de-growth and unprecedented slowdown were a result of several contributing factors. Among these, the growth of the Indian counterfeit auto parts market adversely affected the auto industry. As recorded by the Authentication Solution Providers' Association (ASPA), the Indian counterfeit auto parts market was worth Rs 1 lakh crore in 2019. Despite many attempts at solving this problem, the fake auto parts market is unfortunately thriving in India and the ongoing slowdown has led to many OEMs struggling to find a solution for the same.

<https://auto.economictimes.indiatimes.com/news/auto-components/opinion-its-time-to-call-a-fake-a-fake/74225240>

10. 7 smugglers held, 9.3kg gold seized

19 March 2020 | The New Indian Express

Directorate of Revenue Intelligence (DRI) officers have arrested seven people on charges of smuggling and seized around 9.3kg of gold worth over Rs 4 crore. The gold was smuggled from Dubai and other Middle East countries into Kerala and was being sold in Mangaluru and some districts of North Karnataka with forged foreign marking, said official sources.

Based on credible information, the DRI on March 11 intercepted two people - Syed Mohammed and Ashoka KS at the Mangaluru Central Railway Station - and recovered 5.6 kg in gold bars in crude form from their possession.

<https://www.newindianexpress.com/cities/bengaluru/2020/mar/19/7-smugglers-held-93kg-gold-seized-2118633.html>



Webinar on **PROTECTING YOUR BRAND ON E-COMMERCE PLATFORMS** *Battling the Odds Amid COVID-19 Pandemic*

Date: 24th April 2020

Time: 11:00 am to 12:15 pm



7th edition

MASCRADE

MOVEMENT AGAINST **SMUGGLING & COUNTERFEIT TRADE**

Containing Counterfeiting, Smuggling and Piracy: A Winning Strategy



In the recent past India's economic growth story has attracted world's attention bringing new challenges for the domestic economy. One of the challenges currently faced is the growing illicit trade in counterfeits, pass offs and smuggled goods. These activities are also threatening brands not only in every region of the country but across the globe. Contraband and counterfeit products hurt the integrity of the brand, further diluting the brand owner's reputation. This not only results in erosion of sales of the legitimate product but further [CASCADE]s onto affect the consumers in the form of health and safety hazards. With the above insight the Federation of Indian Chambers of Commerce and Industry (FICCI) took the initiative to dedicate a forum by establishing the Committee Against Smuggling and Counterfeiting Activities Destroying the Economy - CASCADE on 18th January, 2011.

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