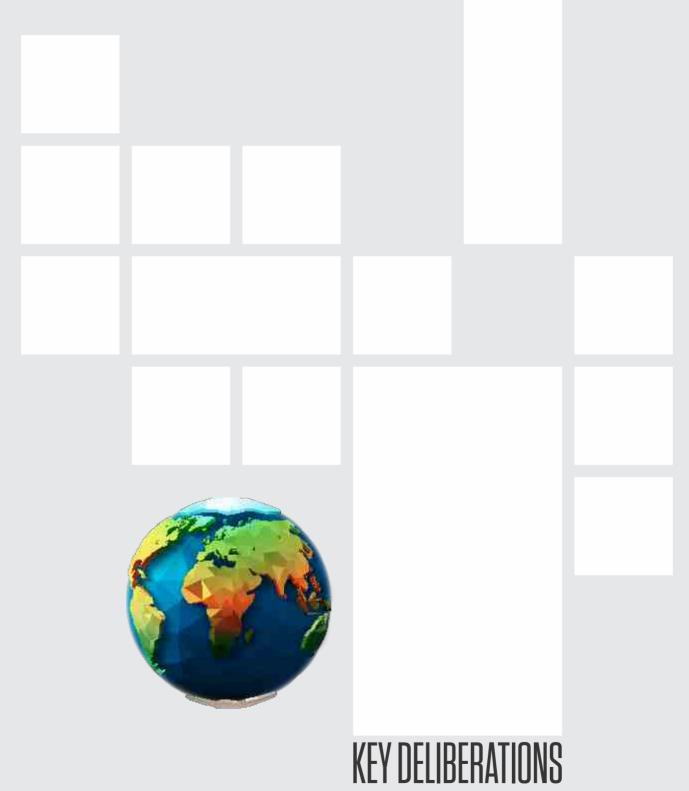




Containing Counterfeiting, Smuggling and Piracy: A Winning Strategy







Smuggling

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Illicit Trade

llicit trade viz smuggling, counterfeiting and piracy are considered as one of the world's fastest growing economic activity. They have spread adverse effects on trade, foreign investment, employment, innovation, criminality, environment, and most importantly, on health of the consumers. It escalates each day in scope and magnitude. Over the period of last ten years the magnitude of illicit trade has grown from USD 650 billion to about USD 3 trillion. 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.

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 also support international terrorism.

No country is immune to the impact of counterfeiting and smuggling and no single sector can be said to be an exception. The wide availability of such products is one of the biggest challenges faced by Indian industry, impacting 'Brand India' globally. According to a report by FICCI CASCADE estimated loss to only 7 industry sectors was Rs. 1,05,000 crores in 2013-14, with an increase of 44% between 2011-12 and 2013-14. The total revenue loss to the government on account of this illicit trade was Rs. 39,000 crores in 2013-14 from these 7 sectors alone. Some of the factors responsible for existence and continuity of the grey market are: high profitability, large market size, tax arbitrage, small investment and technology requirements needed by illicit traders, easy access to distribution channels, and ease of concealing operations coupled with inadequate enforcement.



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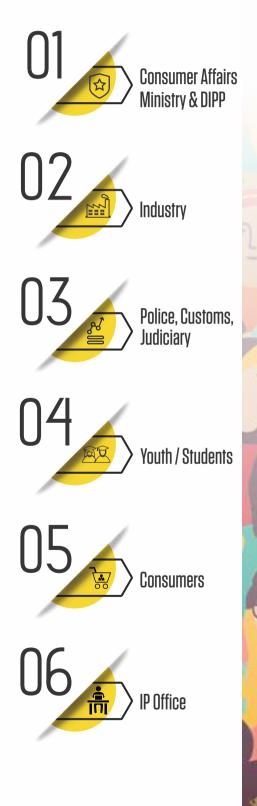
FICCI CASCADE

Committee Against Smuggling and Counterfeiting Activities Destroying the Economy

ICCI has been focusing on curbing the problem of growing illicit trade in counterfeits, pass offs and smuggled goods, and accordingly has dedicated a forum by establishing CASCADE -Committee Against Smuggling and Counterfeiting Activities Destroying the Economy. FICCI CASCADE is working closely with the Industry and Government to create awareness on how counterfeiting and smuggling has become a serious menace to public health and safety, and why all concerned must address these important issues.

FICCI CASCADE has been successful in stirring an active debate on the menace of smuggling and counterfeiting nationally through various awareness programmes and initiatives engaging industry, policy makers, law enforcement officials, voluntary organizations and consumer at large. Since its inception, FICCI CASCADE has over the years organised various awareness programmes and initiatives across the nation to fight the hazards of counterfeiting, piracy and smuggling. It has been successful in stirring an active debate on the topic nationally and internationally. These awareness programs were well attended comprising across sectors, consumer rights activists, youth, government officials, the judiciary, police, customs and border enforcement officials, and have received wide public appreciation and media coverage.

FICCI CASCADE engages with various ministries at the National and State level. CASCADE works closely with the Ministry of Consumer Affairs in their vision to protect the rights and interests of consumers, to spread awareness about consumer rights, duties and responsibilities and to promote consumer welfare by strengthening consumer movement in the country.





An integral part of FICCI CASCADE is to conduct multi-stakeholder dialogues focused on identifying opportunities for joint action between governments, enforcement agencies, international institutions and the private sector to combat illicit trade. In furtherance of this mandate, CASCADE has organized 4 editions of its flagship international conference. The objective being to bring together and encourage deliberations between the stakeholders on the alarming magnitude of unfair trade practices such as counterfeiting, smuggling & piracy, and to spread awareness about its adverse socio-economic impact. These forums saw overwhelming response in terms of delegate participation, media coverage and witnessed a host of international and national speakers who deliberated on the theme. Post conference reports and suggestions were shared with policy makers at the highest levels.



G lings of Past INTERNATIONAL CONFERENCES



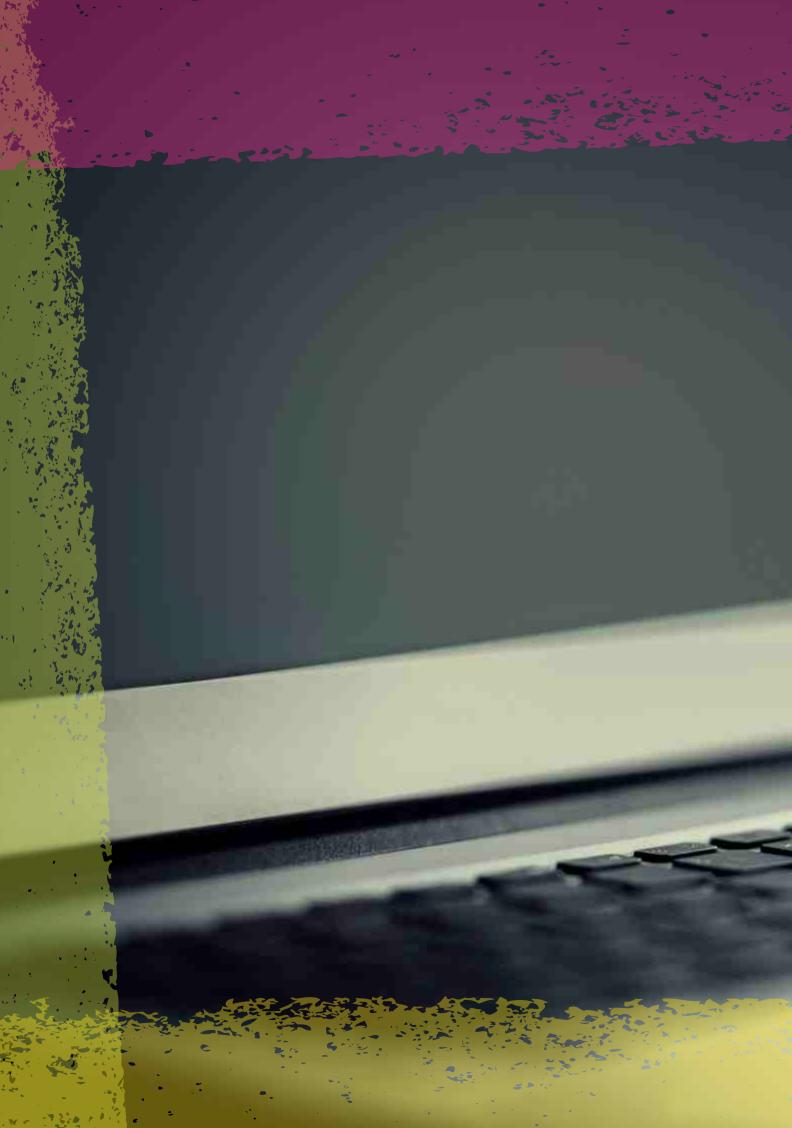
Glimpses of Past



International Conferences







AGENDA



Agenda

26 th SEPTEMBER 2019	9 DAY 1
09:30 am - 10:30 am	REGISTRATION
10:30 am - 10:40 am	INAUGURAL SESSION
10:40 am - 10:55 am	Welcome Address by Mr. Anil Rajput, Chairman, FICCI CASCADE
10:55 am - 11:10 am	Special Address by Mr. P. K. Das , Chairman, Central Board of Indirect Taxes and Customs
	Keynote Addresses by Guest of Honour
11:10 am - 11:25 am	Shri Nityanand Rai, Hon'ble Minister of State, Home Affairs, Government of India
11:25 am - 11:30 am	Shri Anurag Singh Thakur, Hon'ble Minister of State, Finance and Corporate Affairs, Government of India
11: 30 am - 11:45 am	<i>Release of the Study</i> 'Invisible Enemy: Impact of Smuggling on Indian Economy and Employment'
	 Recognition for Distinguished Service in Enforcing Laws - Anti-Smuggling and Anti-Counterfeiting: Enforcement Officers
	 Interschool Competition- Fight Counterfeiting and Smuggling: School Children
11:45 am - 11:50 am	Concluding Remarks by Mr. Arun Chawla, Deputy Secretary General, FICCI
11:50 am – 12:10 pm	Highlights of the Study - 'Invisible Enemy: Impact of Smuggling on Indian Economy and Employment'
	Presentation by Mr. Kaushik Dutta, Founding Director, TARI
12:10 pm - 01:30 pm	SESSION 1
	LOOKING BEYOND BORDERS- Balanced, Holistic and Futuristic Strategies
	 Outlining the state of the global problem of illicit trade, its visible outcomes and measurable impacts
	 Harnessing the potential of multilateralism through intergovernmental actions
	 Effective monitoring and inspection of FTZs to ensure legitimate trade flows in order to avoid FTZs from becoming 'hotspots' for illicit trade and organized crime
	 Designing effective global strategies and improving regulatory framework
	Session Chair
	Mr. Najib Shah , Former Chairman, Central Board of Indirect Taxes and Customs and Think Tank Member, FICCI CASCADE
	Speakers
	Mr. Julian Saldanha, First Secretary, HM Revenue and Customs, British High Commission
	Mr. Huw Watkins, Head of Asia Policy, Intellectual Property Office, UK





	Col. t. ISSMI Vincenzo Tuzi, Guardia di Finanza Attaché, Embassy of Italy		
	Mr. Tim Sheppard, Counsellor (Australian Border Force), Australian High Commission		
	Ms. Shilpi Jha, Senior Legal Counsel for Intellectual Property-South Asia, Embassy of the United States of America		
1:30 pm - 2:30 pm	Lunch		
2:30 pm - 3:15 pm	SESSION 2		
	<i>LESSONS TO LEARN:</i> Speak your mind to make a difference: Case Studies from FMCG Sector		
	Speakers		
	Mr. Sandeep Kaul, Divisional Chief Executive, India Tobacco Division, ITC Ltd		
	Mr. Milind Palany, Senior Manager, Global Brand Protection, India & South Asia, Johnson & Johnson		
3:15 pm - 4:45 pm	SESSION 3		
	ADDRESSING THE CHALLENGES AT HOME- Balancing Brand Security Strategies and Actionable on Ground Operations		
	 Robust assessment and greater vigilance to control counterfeiting and smuggling 		
	• Sharing data and awareness initiatives to garner public support and spur governmental actions		
	 Approaches to facilitate coordination, enhance mutual learning and police illegal activity 		
	 Reshaping the future of brand protection through technological solutions 		
	Session Chair		
	Mr. Hem Kumar Pande, Former Secretary, Ministry of Consumer Affairs, Food and Public Distribution, Govt. of India and Think Tank Member, FICCI CASCADE		
	Speakers		
	Mr. Cameron Walker, Regional Brand Protection Manager, Middle East, India and Africa, Beiersdorf		
	Mr. Bejon Misra, Founder Consumer Online Foundation and International Consumer Policy Expert		
	Ms. Vijayalakshmi Malkani, IP Counsel, Hindustan Unilever Ltd.		
	• Mr. Divay Kumar, Cofounder & CEO, O4S		
27 th September 2019	Day 2		
09:30 am - 10:20 am	REGISTRATION		
10:20 am - 10:30 am	Welcome and Opening Address		
	Mr. Sanjeev Tripathi , Former Chief of RAW and Think Tank Member, FICCI CASCADE		



	Need for a clear policy mandate having concrete elements to provide the impetus needed to contain counterfeiting, smuggling and piracy
10:30 am - 10:40 am	Keynote Address by Mr. Balesh Kumar , IRS, Director General, Directorate of Revenue Intelligence, Government of India
10:40 am - 10:50 am	Special Address by Dr. Muktesh Chandra , Special Commissioner of Police (Operations), Delhi Police
10:50 am - 11:15 am	Interactive Session
	Session Moderator: Ms. Anuiya Yadav, Senior Anchor, Times Network
11:15 am - 11: 45 am	SESSION 4
	<i>LESSONS TO LEARN:</i> Speak your mind to make a difference: Case Studies from Apparel Sector
	Speakers
	Ms. Jyothi V K, General Counsel & Vice-President, Aditya Birla Fashion and Retail Limited
	Mr. Akshay Sangwan, Senior Manager- Brand Protection, Puma Sports India Pvt Ltd
11:45 am - 01:00 pm	SESSION 5- Panel Discussion
	ATTACKING THE ROOTS OF ORGANISED CRIME: Strategic, Operational and Technical Aspects of Smuggled & Counterfeit Trade and Pirated Content
	• Discussing the emerging crime trends and sharing successful practical solutions
	• Examining the loopholes exploited by terror organizations to build their financial architecture for funding organised crime
	• Exploring new dimensions to strengthen security, governance and rule of law
	• Developing expertise through specialized training system for effective detection, investigation and prosecution of criminal cases
	Panelist
	Mr. M L Sharma, Former Special Director, CBI
	Mr. Felix AVELLAN, Criminal Intelligence Officer, Illicit Goods & Global Health Programme, INTERPOL
	Mr. Elliot L. Harbin, National Programme Manager, Global Trade Investigations Division, Department of Homeland Security, US
	Mr. Uday Devineni, ICE Representative, Department of Homeland Security-Homeland Security Investigations, US
	• Mr. Neh Srivastava , Under Secretary, Ministry of Home Affairs, Government of India
	Mr. Anuj Sharma, Assistant Commissioner, ACC Import Commissionerate
	Session Moderator: Mr. Athar Khan, Editorial Consultant, Times Now



02:00 pm - 03:00 pm SESSION 6 CHOKING THE FLOW- Policy and Regulatory framework Counterfeiting, Smuggling & Piracy from Entering to Marketplace Marketplace Marketplace Neasuring reputational damage and financial impar- counterfeiting and piracy Insights on effective and verified procedures for mo- distribution of goods and pirated products on the d Exploring latest technology and strategies to secure available online Establishing relationships and new areas of coopera- against online counterfeiting and piracy Session Chair Mr. Narendra Sabharwal, Chairman, FICCI-IP Committed	he Virtual ct of online mitoring online trade ligital platform e and protect product ation in the fight
 Counterfeiting, Smuggling & Piracy from Entering to Marketplace Measuring reputational damage and financial imparcounterfeiting and piracy Insights on effective and verified procedures for modistribution of goods and pirated products on the distribution of goods and pirated products on the distribution goods and strategies to secure available online Establishing relationships and new areas of coopera against online counterfeiting and piracy 	he Virtual ct of online mitoring online trade ligital platform e and protect product ation in the fight
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	ee & Former Deputy
Mr. Narendra Sabharwal, Chairman, EICCI-IP Committ	tee & Former Deputy
Director General, WIPO and Think Tank Member, FICCI C	
Speakers	
Dr. A. K Garg, Director, Ministry of Electronics & Info Government of India	ormation Technology,
Mr. Dustin Todd, Head, Global Brand Relations, Am.	azon.com, Inc.
Mr. Surender Mann, Senior Vice President - Legal, S	Star India Pvt. Ltd
Mr. Nikhil Grover, Director, Digital IP Insights Privat	te Limited, SIPI
Mr. Amit Bhasin, General Manager, Legal - Custome Corporate Secretarial, Hindustan Unilever Ltd.	er Development and
03:00 pm - 03:30 pm SESSION 7	
LESSONS TO LEARN: Speak your mind to make a different from Auto Sector	erence: Case Studies
Speakers	
Mr. Yash Pal Sachar, General Manager - Parts, Hono	da Motor India
Mr. P. Thippeswamy, Deputy General Manager, Ma	ruti Suzuki India
Valedictory Session	
3:30 pm - 3:45 pm Opening Remarks by Hon'ble Mr. Justice Manmohan Lokayukta, NCT of Delhi, Chief Justice, High Court of Ja Judge, High Court of Delhi and Think Tank Member, FIC	mmu and Kashmir &
3:45 pm - 4:05 pm Keynote address on Proactive Role of Judiciary within Exis to combat Counterfeiting and Smuggling- The need for Le /enactments	
Hon'ble Shri Uday Umesh Lalit, Judge, Supreme Cour	rt of India
4:05 pm - 4:15 pm Concluding Remarks by Mr. P. K. Malhotra , Former Sec Law and Justice, Government of India and Think Tank M CASCADE	



Summarized Summar



t has long been known that illicit trade in terms of counterfeiting, smuggling and piracy make up a vast 'global businesses', representing a multibillion-dollar illegal industry that creates a significant drain on the world economy. Further, it negatively impacts legitimate economic activity and facilitates an underground economy and organized crime that deprives governments of revenues for vital public services, forces higher burdens on taxpayers, dislocates hundreds of thousands of legitimate jobs and exposes consumers to dangerous and ineffective products.

It is this area in which CASCADE (Committee Against Smuggling and Counterfeiting Activities Destroying the Economy), of FICCI, with a view to bring about a change, has been pursuing a campaign to raise consumer awareness, policy makers in the government, and the concerned enforcement agencies.

As a significant part of this campaign, every year, CASCADE holds its flagship international event, namely, MASCRADE (Movement Against Smuggled and Counterfeit Trade), which is attended by many delegates from India and abroad. The sixth edition of this movement was held in New Delhi during 26-27 September this year with a theme of 'Containing Counterfeiting, Smuggling and Piracy: A Winning Strategy'. MASCRADE2019 focused on decisive intervention as a way of addressing the debilitating impact of counterfeiting and smuggling on global economies. This conference was a conscious and well directed attempt to bring in the best minds from the fields of policy making, law, brand protection, industry, enforcement agencies and media to find a holistic and permanent solution to the problem of counterfeiting, smuggling and piracy, which if left unchecked, threatens to subvert the economic and societal stability of countries across the world.

Shri Anurag Singh Thakur, Hon'ble Minister of State, Finance and Corporate Affairs, Government of India inaugurating the conference said that the Government along with

Government along with organizations like FICCI must fight against counterfeit, illegal smuggling and



Shri Anurag Singh Thakur Hon'ble Minister of State Finance and Corporate Affairs Government of India

organizations like FICCI must fight against counterfeit, illegal smuggling and piracy. He further stated that India needs more awareness to understand the difference between fake and original goods and urged to leverage use of technology to stop this growing menace.

> In our country any illegal activity is not appreciated and I am sure that we will soon overcome this problem which triggers criminal activity stated **Shri Nityanand Rai, Hon'ble Minister of State, Home Affairs, Government of India.** Addressing the gathering, Hon'ble Minister said that counterfeiting and smuggling directly impacts health, economy, education and society.





We should come together and say no to counterfeit and smuggled products. The government of India has already taken several measures to address this issue and FICCI CASCADE should send recommendations on curbing this problem to all ministries in the government to further strengthen these measures.

In a special address, **Mr. P. K Das**, Chairman, Central Board of Indirect Taxes and Customs, highlighted the several initiatives undertaken by the Government of India to fight the menace of smuggling and counterfeiting. He said that "money generated through illicit trade funds organized crime and nurtures illegal drugs trade, he further added that "CBIC India is equipped with all advance technological wherewithal to detect counterfeit and smuggled products."

counterfeiting and smuggling directly impacts health, economy, education and society. We should come together and say no to counterfeit and smuggled products.

> Shri Nityanand Rai Hon'ble Minister of State, Home Affairs Government of India.

Mr. Anil Rajput, Chairman, FICCI CASCADE in his welcome address emphasised, "I must say that the work undertaken by Shri Narendra Modi ji's government has been laudable. Under his able directions and guidance, the seizures of illicit goods are at an all-time high in India. Smuggling and counterfeiting are increasingly hurting Indian economy and have crept into multiple sections of the society. Immediate steps are required, both in the form of policy intervention and awareness generation, to address this growing menace".

The event saw the release of a study commissioned by FICCI CASCADE to Thought Arbitrage Research Institute (TARI)—'Invisible Enemy: Impact of Smuggling on Indian Economy and Employment'. The study is a pioneering effort in India, which quantitatively estimates both revenue and livelihood opportunity lost due to smuggling in five specific industries. These are: Textiles, Tobacco Products (Cigarettes), Readymade Garments, Capital Goods (Machinery and Parts) and Consumer (Electronics) Durables. The report also highlights the key challenges posed by smuggling and suggests possible solutions to make compliance and related processes more robust with the overarching objective of arresting the spread of smuggling.

To encourage and acknowledge the work of our law enforcement agencies, FICCI CASCADE also felicitated the best performing officers for the year 2018-19, for their outstanding achievement in the prevention of counterfeiting & smuggling, and enforcement of anti-smuggling & anti-counterfeiting laws on this occasion.



Key deliberations and Recommendations – MASCRADE2019

arious issues such as Balanced, Holistic and Futuristic Strategies; Balancing Brand Security Strategies and Actionable on Ground Operations; Attacking the roots of organized crime; Policy and Regulatory framework needed to Stop Counterfeiting, Smuggling & Piracy from Entering the Virtual Marketplace among others were deliberated in the two-day dialogue which was attended by over 600 delegates.

Along with growth in economy, there has also been rise in illicit trade. In fact, rate of growth of illicit trade has outpaced the growth in economy. It has credibly been estimated that by 2022, the market size of this illegal business at global level will touch US\$ 3 trillion. No country is immune to this problem, and there is no product, the counterfeit of which is not available in the market.

A report by USTR informs us that pharmaceuticals and FMCG products are facing a big problem due to illicit markets. 20% of pharmaceuticals sold in the market are either counterfeit or substandard, and in the case of FMCG products, 7-10% of the market share has been taken away by smuggled or counterfeit goods which results in a loss of Rs. 21,000 to Rs. 31,000 crore to the legal industry. One alarming aspect of the illegal business is that money generated through this is the main source of financing of terrorism across the globe. Different terrorist organizations indulge in smuggling and counterfeiting of specified products viz Islamic State in cigarettes and mobile phones; Hezbollah in drugs and medicines; Al Qaeda in clothing and bags; Irish Republican Army in pirated discs and clothing; Hamas in drugs and food products; and Boko Haram in

cigarettes. Rightly so, this evil business is termed as the crime of the 21st century by the FBI.

Speakers in the conference also mentioned about the online sale of counterfeit goods. Nearly one in three Indians have reported receiving counterfeit products online. An OECD report of March 2019 shows that worldwide percentage of counterfeit footwear is about 22%, clothing 16%, leather goods 13%, electric equipments 12%, etc. It is important to note that since brands stand for social status, trust, quality, originality etc., hence any activity that compromises with this has to be curbed effectively.

It was suggested that vigorous consumer awareness campaigns are required to be undertaken at a large scale. Further, multimedia campaigns such as government's "Jago Grahak Jago" are also needed to be launched on a much bigger scale. This will empower the consumers to differentiate between the genuine and fake. Industry has also to take steps to safeguard the integrity of supply chains of their products, check notorious markets regularly, and use technology to track and trace movement of their original products in transit. Industry has to put thrust on risk assessment and make more investment in intelligence services. To check this menace, whole-hearted support of the government is necessary. The government has to establish a nodal vigilance agency to carry out regular monitoring of illegal activities.

A regular and constant dialogue with international stakeholders will also help in disseminating global best practices. It was suggested that legal provisions dealing with such crimes are needed to be reinforced. The extant bail provisions





are not severe, and that after detection of a case and completion of investigation, only a few prosecution proceedings result in conviction. It is necessary that bail should carry high amount of security, there should be stringent monetary penalty for the offences, and imprisonment should be more rigorous than at present. It was also opined that certainty about infliction of penalty is more effective than severity of the penal action. Investigation and prosecution must end in a specified period. The need for separate commercial courts manned by specially trained judges was also recommended. Dynamic injunctions coupled with punitive damages and making the provision of arbitration applicable for such offences were discussed. There is a need for a comprehensive national legislation to deal effectively with organized crime like the one in Maharashtra.

Hon'ble Shri Uday Umesh Lalit, Judge, Supreme Court of India in his valedictory address said that counterfeiting is like a cancerous cell eating into the body of the society. There must be body to conduct constant and vigilant monitoring to curb counterfeiting before it takes place. It is imperative that the judicial process, executive vigilance and legislative apparatus must work together to stop the menace of counterfeiting and smuggling.

A systematic treatment and persuasion by global community for stronger enforcement is needed to address this issue. The conference saw a host of notable international speakers from **INTERPOL, US Intellectual Property-**South Asia, UK Intellectual Property Office, Australian Border Force, HM Revenue and Customs and US Dept. of Homeland Security, and captains from the industry across sectors. Notable senior Indian government officials from Ministry of Home Affairs, Gol, Department of Law and Justice, Central Board of Indirect taxes and Customs, Directorate of Revenue Intelligence, Delhi Police, Customs also took part in the deliberations and extended their support to this initiative.

Since, the Indian economy has planned to reach the target of US\$ 5 trillion by 2024, illicit trade having a serious decelerating effect on growth, has to be curbed substantially. This will happen only if concerted effort is made by all stakeholders. All concerned have to cooperate to ensure that an effective and workable deterrence to contain the spread of this menace, is created without any loss of time. In absence of such an action, it would be difficult to arrest this menace.









Anil Rajput

Chairman FICCI CASCADE 

t is such a congregation that gives FICCI the strength to aim high and achieve difficult targets. It is when everyone stands shoulder to shoulder that the impossible becomes possible. It was with this vision that FICCI started this Movement Against Smuggled and Counterfeit Trade in the year 2013 and it is now the 6th international event. With every passing year, different facet of illicit trade have been focussed and addressed it in the best possible manner, it is very important to understand that if the spread of illicit trade is not checked immediately, the consequences will be disastrous for societies and economies alike. Posterity will never forgive us, for not exhibiting sagacity, when it was most important.

India is today one of the fastest growing economies in the world, it is also a hot favourite of those indulging in illicit trade. Here, it must be added, that the resolve of Shri Narendra Modi ji led government has been laudable, under its able directions and guidance, the seizure of illicit goods is at an all-time high in India, and the enforcement agencies despite limited resources and technology have done a commendable job.

In fact, the report to be released recommends that the latest technological tools should be made available to the enforcement agencies so that they can stay ahead of the curve.

So far, illicit trade has been seen from the prism of loss to the exchequer, but it has many more facets that impact our society, one can look at its effect on employment and law and order.

There is tremendous potential for India to create 5 lakh jobs, however, this will require ruthless handling of these smugglers and counterfeiters. The cascading effect of this could be a potential 16 lakh job opportunities owing to backward linkages and multiplier effects. FICCI CASCADE decided to commission a study, and the consequential report is titled 'Invisible Enemy: Impact of Smuggling on Indian Economy and Employment'. The findings of this study will surely help in looking at the future with clarity and resolve.

Now, looking at the economic impact of illicit trade. Illicit trade is the world's largest growing industry and its size is estimated to range between \$650 million to \$3 trillion according to multiple studies. This evil business represents 10% of global trade and has been termed as the crime of the 21st century by the Federal Bureau of Investigation (FBI).

In the Indian context, a report by FICCI CASCADE estimated the loss to seven industry sectors at over Rs 1 lakh crores, increasing 44% between 2011-12 and 2013-14. The total loss to the government on account of this was Rs 39000 crore in 2014, and the maximum revenue loss to the exchequer on account of illicit trade is attributed to tobacco products at Rs 9000 crore, mobile phones at Rs 6700 crore and alcoholic beverages at Rs 6300 crore. This study needs to be updated and surely post 2014, the numbers may have substantially varied.



There is tremendous potential for India to create 5 lakh jobs, however, this will require ruthless handling of these smugglers and counterfeiters. The cascading effect of this could be a potential 16 lakh job opportunities owing to backward linkages and multiplier effects.



Here, looking at some facts about cigarette smuggling in India, which has witnessed a decline in the sale of legal cigarettes between 2011-2017. The legal sale of cigarettes in India by volume have fallen from 110 billion sticks in 2011-12 to 81 billion sticks in 2016-17. The illicit cigarette sticks sold in India as per Euromonitor is approximately 24.8 billion, which is over 30% of the legal cigarettes sold in India. The spread of this activity worldwide too, can be gauged from the fact that illicit tobacco trade costs Latin America and Canada \$4.6 billion every year.

In fact, two more industries that have a massive impact on the consumers, namely Pharmaceuticals and FMCG, too have extremely unsettling data on Illicit trade. A recent report on Intellectual Property by the United States Trade Representative found that 20% of the products sold in the Indian Pharmaceutical market are either counterfeit or substandard, and this becomes scary when we see the size of the Indian Pharmaceutical industry, which is projected to touch approximately \$55 billion by 2020. In the case of FMCG, according to the Indian Brand Equity Foundation, this sector is the 4th largest sector of the economy with a total market size of Rs. 3.4 lakh crore in 2018 and has a projected double-digit growth, industry reports suggest that 7-10% of FMCG products sold in India are smuggled and counterfeit. This causes losses anywhere between Rs.21,000-30,000 crore for the legal industry every year.

Besides unemployment and massive financial losses, illicit trade creates large scale destabilisation by fomenting crime and creating devastating terror groups. The most deadly terror organizations rely heavily on the proceeds from illicit trade, the Islamic State is known to be indulging in illicit trade of cigarettes, oil and mobile phones, Hezbollah deals in drugs and medicine, Al-Qaeda in clothing and bags, the Irish







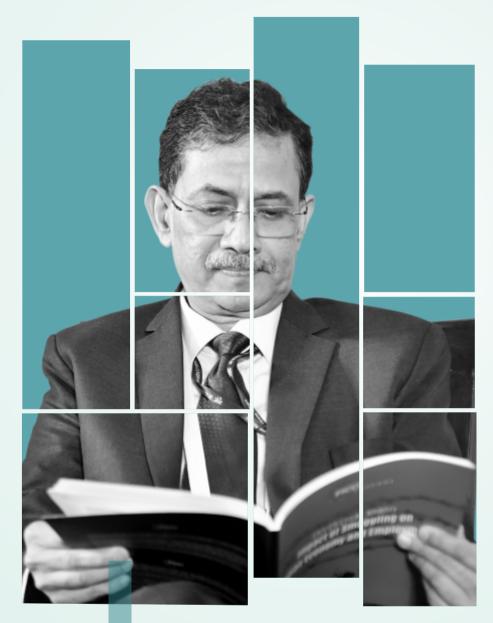
Republican Army (IRA) focusses on pirated discs and clothing, while HAMAS prefers drugs and food products. In 2017, six out of the eight deadliest terror attacks in the world that claimed the lives of 1500 people were planned, financed and executed by Taliban, Al-Qaeda and ISIS, and according to the Global Terrorism Database of the University of Maryland, 2016, these terror outfits are responsible for 70% of the world's terror victims. In August, 2019, a bomb blast in Kabul, Afghanistan killed 92 people, and the responsibility for the attack was taken by a local affiliate of the Islamic State. Just a few days back, two bomb blasts killed 48 people in Afghanistan, and these were attributed to the Taliban. The Taliban has a vice like grip on the opium trade of Afghanistan, which supplies the overwhelming majority of illicit heroin worldwide, and estimates of the Taliban's annual share of the illicit drug economy range from \$100-\$400 million. These are yet again examples, that underscore the lethality of illicit trade funded terror organisations.

Understanding the gravity of the situation, FICCI CASCADE has constituted a formidable think tank, which includes top experts from a variety of fields. It has achieved multiple milestones and created an environment that effectively addresses the various facets, of the rather complex subject of illicit trade. Over the years FICCI CASCADE has joined hands with several international institutions such as WIPO, UNODC, INTERPOL, OECD, WCO, US Department of Homeland Security and many more, to fight and heighten the response to the impact of illicit trade.

In conclusion, it is undoubtedly a herculean task for any one organisation to successfully address this hydra headed adversary, it requires efforts from every right-thinking person to come forward and contribute in eradicating this menace from the society. It is critical that the government agencies have greater access to information and technology to effectively fight this evil. The civil society too has an important role to play, that of creating awareness amongst the consumers, to ensure that only legal products are consumed, even if they are a tad bit expensive. This will ensure that we are getting the genuine products and are not duped by these nefarious forces, and are not helping these anti-social elements in their cause across the world.

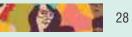
International cooperation is important in ensuring seamless exchange of information, so that the perpetrators of this crime are brought to justice. This is one are where civil society, government and the enforcement agencies and industry they are all on the same side of the table and they can actually accomplish a huge amount of benefit by working together and ensuring the future of our children is safer, healthier and happier. The deliberations over the next two days will result in a concrete strategy, that will empower us to counter this formidable enemy in a more effective manner.





Mr. P. K. Das Chairman, Central Board of Indirect Taxes and Customs

BIC is not only in charge of collection of revenue, so far as the custom duty and GST is concerned but also the central excise duty and erstwhile service tax. But more importantly, CBIC is mandated to ensure that it balances trade facilitation with compliance as per the international requirement and enforcement of various rules, regulations and enactments. CBIC not only implements the two major enactments, like Customs Act and GST, but also 50 different enactments. With respect to border control, it oversees cross border movement of goods, services as well as the passengers. It has the enviable task of ensuring that not only licit trade is facilitated but illicit trade is also prevented by all means.





Therefore, the mandate of CBIC is to detect cross border violations related to illicit movement of goods, illicit trade including trade in counterfeits which is the source of the grey market and the biggest source of indirect tax evasion. And it takes place in two ways; either it takes place in the form of undervaluation in imports and exports or overvaluation in imports and exports. When it undervalues any goods, the amount definitely is passed on to the foreign supplier through hawala means, through illicit channels and when it is overvalued the fund is parked abroad for further such illicit trade or getting the goods under invoiced and bringing in large numbers. Similarly, when any export consignment is overvalued, then it gives scope for illicit trade to take advantage of the export benefits, get circular trading and avail benefits from banking channel and get the recognition which perhaps is not warranted. Undervaluation of exports similarly also ensures that money, which is due to the government, which should come as a foreign exchange to the government of India is parked abroad for some nefarious activities.

So, therefore these various kinds of misdeclaration of the goods in terms of the misdeclaration of country of origin, of value, of some specification, enables the nefarious traders to claim exemption under not only the Customs Act but various other free trade agreement, preferential trade agreements and the licit import or the the licit trade is thereby disadvantaged.

So, it is very important to further licit trade, in order to encourage all the licit trade that takes place in the country it should be ensured that these kinds of illicit activities are prevented and that is the main action taken by the CBIC. The illicit trade is again financed through illicit money channels like hawala, to settle the differential amounts, this will also in turn promote black money transactions, money laundering – trade based, and this often is also linked to organised crime, corruption and terror funding. Also, various investigations have revealed that it also funds the drugs syndicates world over.

For the industry, trade in illicit goods, including trade in counterfeit means unfair competition as smuggled and substandard goods are peddled and available at cheaper rates. It is not the rate, which is very critical factor, it is the type of goods which comes. How it impacts the society at large if the goods are inferior in quality, it might impact the public health, the market share of licit product gets shrunk leading to loss of revenue as sales dip, employment also gets impacted. It leads to a lot of loss of goodwill for the product, particularly when cheap counterfeit products flood the markets. So, the innocent consumers without knowing that it is cheap, and it is counterfeit, perhaps blame the manufacturers that these are the products which has affected/impacted them. But it may not be the product which has been manufactured by the manufacturer themselves, it maybe manufactured by some substandard manufacturer somewhere unknown to the industry.

So, therefore these nefarious trades have negative impact on the local manufacturing, Make in India initiative of the government, it also hits the employment generation, it



severely depresses and discourages law abiding industry and seeks to promote a culture of tax evasion and avoidance. Ultimately, the consumer is the one who gets the huge impact of counterfeit goods and particularly in cases of substandard auto parts which might lead to accidents, substandard pharma products impacting not only citizen's health but also the entire money or the investment that the common citizens have to undertake for their health insurance and other health issues. It has been noticed that such products are nonstandard, counterfeit products are invariably non-BIS compliant not backed by warranty or guarantee, it is not reliable without any reliable after sale service. Therefore, this not only impacts the public health and the citizens in general, it also impacts environment – products such as firecrackers, e-waste, R-22 gases, as they pose risk to the environment apart from posing risk to the human and animal health.

So, far as CBIC is concerned it is not only in the forefront of ensuring that the licit trade particularly is facilitated, but also that illicit trade is deterred, so that the tax and custom duty evasion is checked by various enforcement wings in the custom houses. There is Directorate of Revenue Intelligence, the apex intelligence agency looking into the anti-smuggling operations. There are also in the government of India, various

agencies like enforcement directorate which also looks into the money laundering and other related crimes. So, these are the ones which the CBIC does in consultation with other stakeholders' and other institutions. So far as CBIC is concerned it has also entered into 30 **Custom Mutual Assistant Agreements** also known as CMAA with various countries- in almost 60 countries, to get mutual investigative assistance whenever a case is detected, request is sent to these countries abroad with whom there is CMAA. Recently even in Customs Act, it has been noticed that people are taking advantage, though the beneficial owner is different they put somebody in the front to take advantage of certain benefits, but actual beneficial owner is somebody different. So, therefore the concept







of beneficial owner has been introduced to ensure that it not only tackles the front end violator but also go back to actual master mind, the beneficial owner, because ultimately the entire exercise of undertaking the illicit trade is to have some financial gain. Since, the financial gain is normally availed by the mastermind, therefore it is not the people who were there in the forefront but actually the mastermind CBIC wanted to take action against. So far as the systems or technology is concerned, CBIC has unveiled the advanced web based IPR recording application and it has also been updated, so all the copyright owners and various IPR owners can register themselves and ensure that whenever their consignments or similar type of consignments are noticed, we give them notice and in case they come to know that counterfeit products are imported, they should help Custom authorities in detecting and also taking it to a logical extreme. There have been many cases where though it is permitted in law to take action against the counterfeit importers, importers go to the court saying that their product is not counterfeit, their product may not have originated from the manufacturers premises themselves, and originated either from the trader or from the warehouse. So, these are the areas perhaps where the manufactures have to comeback after registering their IPRs. They should comeback to CBIC, and help in nailing the culprit and finding out if their supply chain is compromised and if anyone is involved in



illicit trade. Though the CBIC has unveiled a trust-based, rule-based technology driven environment, more importantly, CBIC needs the help of the common citizen. It is the common man who is impacted in many ways, whether CBIC detects the case or not, depends on how citizens help in detecting the case. So, therefore it is very important that there is support from the civil society.

As an industry association FICCI CASCADE is making their responsibility to ensure that these kind of seminars and symposiums are conducted to see that the common man is educated, and people are generally made aware the developments of the illicit and counterfeit trade. The need of the hour is vigorous consumer awareness campaign by the industry and the associations.





Shri Nityanand Rai

Hon'ble Minister of State Home Affairs, Government of India





ASCRADE is being organized with a purpose which will definitely succeed. Respected Modi Ji's government has improved the system and processes to address this issue, however, it needs to be strengthened more. A lot of positive steps are being taken in this area.

It is certain, that the fake products adversely impact people at large. Shri PK Das ji, former speaker has spoken about the need to spread awareness in public and consumers regarding the fake products. These duplicate products are being manufactured in our country, it comes from across the border and hence this needs to be stopped. This conference has been organised to control illegal smuggling through FICCI CASCADE. The stakes are high as it impacts health, economy, government, education, and ultimately the society as a whole. There is no area which is spared with its devastating impact.

This issue of sale of illicit products adds to the woes of the finance ministry when the government does not get tax from such products. Not only are such products consumed by the people, but the government also bears a loss on the same. If the government does not get tax, then how will it implement welfare schemes? Also, the economy of India is decentralized. Just like the nitrogen cycle, its economy variably rotates from top to bottom then comes up from below.

If a child is eating or consuming counterfeits in any form, whether it is in the form of oil, biscuits, or may be a compost or medicines, a lot of things

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can happen. This problem impacts where the future of the country begins. How unscrupulous are those people who produce fake products. The law of our country does not allow such activities. Regardless of the same, criminals overlook the law and break it and do not worry about anything. There is adulteration in milk, adulteration in ghee, adulteration in medicine, even water, oil, fertilizers, and the list is endless. So, it becomes a necessity to stop them.

The government wants to stop such illegal activities, the laws are also in place. What is needed is effective enforcement at the border, so that not even a needle comes in as smuggling. FICCI should submit recommendations to the government, to the Home Ministry as to what more could be done to contain this menace and the Ministry will be happy to support the same. The government is serious about catching the smugglers. There is huge success too. Smuggling has reduced when compared with earlier times. It may not have been completely stopped but it has definitely reduced. Impetus must be given to destroy the roots of smuggling.

If smuggling is effectively banned from everywhere, illicit product will not be available. It is thus important to identify such people. Coordinated actions and collaboration amongst all is needed to undertake this work. 3.3 % percent of our world trade is affected by fake products and hence, there is a greater need to stop this.

The government has also worked to encourage the industry through Make

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in India and Digital India. These initiatives have proved to be effective. Agriculture and Industry have been the core to our country since ages. The government is keen for the welfare of both farmers and industrialists. Therefore, SABKA SAATH SABKA VIKAS has been adopted by the Modi Government and it has been fruitful.

In conclusion, if India has to be the best country in the 21st century, then production must be increased significantly. Economy will have to be corrected. Prime Minister's plan to make India a 5 trillion dollars economy, should be everyone's dream and in order to do so the social fabric must also be strengthened.

The envisioned 21st century India, under the leadership of its Prime Minister, will not allow to carry out any form of illicit activities, be it adulteration, smuggling or counterfeiting. No trafficking or forgery will also be tolerated. It is imperative that to build a strong economic system, such frauds are stopped, and real market and real competition are encouraged. bl fo'k I st bylk oppik r kso Sohi Fikks/s' Konkaea , d ckr dguk pkgnakkj — f"k vkβ mn;~ksr ij fgaburku vkt Isvk/kknjr ughag§cgq çkjaklis vk/kknjr jophog&s — fkvk,§mn,⊱ks dhiet Lrk dsfy, vkSmidsmRkn dsfy, fdrusHkn igyqmBk, x, g**&**oksgekisisavhdj.kdks fod Sever cukrk g&ljdkj rkspkgrhgSlcdk Hkyk gksfall ku dk Hkyk gksv k§mn;~ksi fr; ka dkHkykg&aekan ljdkjlcdkHkykpkgrhg&a bl fy, ľ cd k l k Fk l cd k fod kl ék k Zviuk, k x;kgSvkSmleafo'okl Hhvk,kgSlvaea , d lopkoviuh vkjs Isnak pkopavkj ge Icdks feydj bl nsk dks210hal nh ds: i l ok2/3B nšk čukuk gSr ksmR knu d ksHh c<kuk gkskA v FK2 oLFkk dksHhn Bhol djuk gkskA ç/kkueæh dh; ks uk 5 fVfy; u Myl Zdjusdhq\$ml liukadksHkhlkdkj djuk gkoskAlkek td ⊙oLFkkdksHkhl @<+djukgkskAtks21ohalnh dshkir dhdYiuk dhxbŽq\$tkshkir vius c/kueahdsusRoeavkxsc<kg\$m1 liuka d ksl kd kj d j useauk fey koVh fop kj py skl uk fey koVh mR kn py skl uk fey koVh O oLFkk pyshjuk foll hçdki dh fey koV dkschkZr fd; ktk,xk] uk fdl hçdkj dhrLdjhdksuk tkylktholkscnkZrfd;ktk,xkA

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Shri Anurag Singh Thakur

Hon ble Minister of State Finance and Corporate Affairs Government of India





ndia opened to the world in the year 1991 when the LPG which is liberalisation, privatisation and globalisation reforms were implemented. These reforms allowed India to be part of the global trade and it led to a cross border trade of goods and services. Globalisation broadly results in increased trade and lower prices. While on one side the goods that we consume and the services we use have been cheaper and easily affordable because of the globalisation, on the other hand there has been an alarming emergence of illicit trade and smuggling of goods. Firstly, regards to FICCI CASCADE for initiating the dialogue with the national and international stakeholders, on designing a thoughtful and feasible strategy to contain counterfeiting, smuggling and piracy.

Smuggling, counterfeit trade, piracy and illicit operations hold back progress, increases the cost of goods in the markets, leads to tax evasion, hampers job creation and also creates safety hazards for consumers. This issue of smuggling and counterfeit trade is a matter of grave concern as the economic leakages from the illicit trade create an annual drain on the global economy of close to 2.2 trillion dollars - nearly 3% of the world economy. It is a big number, as per a FICCI report released in the year 2015, in seven key sectors in India, an estimated loss of revenue to the government was 39,239 crores and loss to the entire industry was more than 1 lakh 5 thousand crores. And it is certain that these figures have only increased since then.

Counterfeiting is the second largest source of income for criminal activities, such as terrorism globally. The total employment loss globally due to counterfeit and piracy stood at 2.6 million jobs in 2013 and are expected to rise from 4.2 million to 5.4 million jobs in 2022, an increase of about 110%. Effective actions to counter such malpractices must be taken individually and jointly by all stakeholders.

Indian custom authorities have been a pioneering partner in facilitating of legitimate trade through protection of brands and intellectual property. A risk management centre has been created for customs to create national level targets of IPR registered by right holders with customs so that relevant consignments are effectively assessed and examined to rule out the import of IPR infringing goods. CBIC has created an advanced version of the IPR re-coordination system which is IPR ICER – Intellectual Property Rights Indian Custom Re Recordation. Out of the total illicit trade, how many items will have large volume and value involved. Can the high value items and the high-volume items be looked into? So, that if one looks at those top number of items and start working on those areas, with more focus on value and volume of goods, a lot of money, jobs can be saved and this will also stop the flow of money going to terrorist organisations.

Why do people require awareness? Why is a larger awareness program required? It is important for consumer to know whether it is a Made in India product or has the



product come via legal trade or illicit trade. Now, how will an ordinary consumer know this information? If every consumer ensures to take a bill on every purchase -This activity on one side will contribute to the growth of India and on the other side will put restraint on illicit traders, and will also hinder the flow of money going to terrorist organisations or criminals through illegal trade. This will also stop the loss of revenue that the government suffers and loss of employment that people suffer. If 130 crore population of India starts working in this direction, and ask for a bill on every purchase, this illegal activity of siphoning money out of the government's exchequer can be prevented. This government money in turn can be used for social development, creation of employment opportunities and the wellbeing of the nation.

While implementing GST it came to light that many officials are unable to distinguish between one good from another good. If there is some embroidery on some product and there is no embroidery on another, there is a patchwork done or some other work done it is very difficult to understand under which category it will fall. It may also happen in cases of illicit trade or counterfeit goods. Hence, there should be more awareness among the officials and their workforce. The government should internally look into matter.

The second option is using technology to address this issue. In the 21st century when there is AI, Internet of Things, they are going to play a major role as far as the industry is concerned. This will also create a large set of jobs in the coming years. Technology can be used to keep a check on this illicit trade. It is important to look into this globally. Everyone should come together and look at which are the countries who are involved in this and what action should be taken. For eg: if there is a pan waala or a liquor/wine store, these items have the highest duties, as they are sin goods – like cigarettes. If there is an ITC brand cigarette packet and there is one illegally imported cigarette in the same box and the brand name kept there. It is difficult for the common man to see which one is the real product from the ITC group. The liquor industry, in some states have used the hologram feature which has helped them to curtail this problem. It would be useful to see if the same can be applied for cigarettes and for other products as well. Technology can also be used in other ways to create awareness among the consumer about the illegal and legal







products. In the new application the right holders have an option of modification or amendment and renewal of registrations instead of seeking fresh registrations. The right holders have also the option of uploading digital image of genuine and infringing goods, distinguishing feature of genuine and counterfeit goods under various categories including whether several details are present or absent in the product. These features in the new application would help the custom officers in easy identification of genuine or counterfeit goods.

As on September 2019, Right holders have registered 669 IPRs with Indian Customs for smooth implementation of the IPR regime, IPR cells have been constituted in each custom house. To further counter the widespread menace of illicit trade, we must create greater awareness in the public about the enormity of the problem and the impact it has on the society. All the stakeholders must ensure the adoption of the latest technology to aid the security forces and enforcement agencies.

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In the last few months along with the Hon'ble Finance Minister several meetings with industrial heads, trade associations, bankers, financial institutions, professional bodies and consumers have been held and after taking in the inputs and several deliberations, substantial reforms have been introduced, which will boost the economy and revive the investment and growth in the country. Government has announced a historical corporate tax rate cut, which is the single biggest direct tax reform in the country in the last two decades. Cutting down the Corporate tax rate from 30 to mere 22%. This could happen only with a leader like Narendra Modi. It is going to boost growth and investment in the country, which will give a lot of opportunities for the young people to start their own industries and create a lot of job opportunities.

For the new domestic companies who are going to invest to the manufacturing area they will be paying only 15% corporate tax, including the cess and surcharge they will be paying close to 17%, these rates are one of the most competitive rates in the world and it will attract fresh investment in manufacturing which will catapult our country into a 5 trillion dollar economy.

When the BJP government said that they will make India a 5 trillion-dollar economy, there were a lot of speculations on the same. After the end of the parliamentary session, for the next 20 days several people from all the strata were met and the next 20-25 days saw continuous decisions, about 6 such decisions were made that possibly did not happen in the last 20 years. The taxpayer should not be exploited, should not face difficulties, in the ease of doing business standard, India have jumped from 142nd to 17th spot. But faceless assessments are going to start as far as the ITRs are concerned from this year. Other than this for the MSME sector there will be 2% interest subvention, it will be ensured till 31st March that small industries do not become NPA. In the month of October- festival season NBFCs should be there.

A call has been also taken for the Automobile industry with regards to Bharat IV stage vehicles. 15% additional depreciation which will make it 30%, apart from that the Bharat IV Stage vehicle which will be sold till 31st March 2020, will be allowed to be on the roads till their registration. The interest rates have been brought down, a meeting with banks was undertaken to pass on the interest rate cards benefit to the consumers and it will be ensured that at the same time, the registration fee which was supposed to be increased would be postponed to June 2020. As far as the real estate is concerned the homebuyers who were waiting for their homes, the government has provided Rs. 20,000 cr to complete those projects which are non-NP and Non NCLT. Funds have been provided to complete that project and give the homes to the homebuyers so that this Diwali they get their homes, this has also been ensured by government. New plans were brought in for affordable housing options.





All these steps have been taken in mere last one month. This clearly shows that our government is not only listening but acting as well to reach the goal and make India 5 Trillion Dollar economy. With the support of the citizens, the government is going to move in that direction at a much faster pace to achieve the goal.

It is not only the responsibility of the government, but also a joint responsibility of institutions such as FICCI to create large scale awareness on this issue. When each and every consumer will decide to take a bill on every purchase, the authorities will be aware of the transaction, it will be then that the money will not be misused to fund terrorist activity. Moreover, the money will not be wasted to buy duplicate or substandard products impacting consumers' health and safety, and it will be then that someone will not lose his livelihood. The money should not be spent in a way where it makes profit for other countries and losses for India. The day each and everybody starts to think about the wellbeing of India and its benefit, this problem will only decrease year by year. What is needed is a team India to fight this issue.







Mr. Arun Chawla Deputy Secretary General, FICCI

ICCI CASCADE is in the 6th edition of MASCRADE, acronym for Movement Against Smuggled and Counterfeit Trade. Year after year this movement against smuggling and counterfeiting is gathering momentum yielding many dividends, yet a lot needs to be done.

Illicit trade in terms of counterfeiting and smuggling represents a multibillion-dollar illegal industry that creates a significant drain on the global economy. Counterfeiting and smuggling increasingly became a lucrative business causing not only a revenue loss to the industry, but also posing a serious threat to the security of the nation. It is





clear from the discourses of our distinguished guests that illicit trade is damaging national progress by impacting its financial, social and physical health across the globe.

The menace is on the rise, over the period of last ten years the magnitude of illicit trade has grown from USD 650 billion to about USD 3 trillion. As per the report released by OECD in 2019, trade in counterfeit and pirated products amounted to as much as USD 509 billion in 2016 representing 3.3% of world trade. Efforts to counter this menace needs high priority and calls for robust action from all stakeholders- the policy makers, the enforcement officials, the private sector and even the consumers.

FICCI has been at the forefront of advocating policy framework on various aspects affecting industry. With the objective to curb the menace of growing illicit trade in counterfeits, pass-offs and smuggled goods, the CASCADE committee focuses on the issues arising out of illicit trade.

In the last 8 years, CASCADE has been working hand in hand with the industry, consumers, media, legal experts, consumer organizations and policy makers in eradicating the virus of illicit trade through its various initiatives. Since its establishment in 2011, CASCADE's journey has been quite eventful towards building a powerful public opinion. In its journey FICCI CASCADE has been fortunate to have had the support of India's leading policy makers in driving the agenda of checking the threat of counterfeiting and smuggling in the country. Several institutions of international repute have joined hands with CASCADE to fight the cause and heighten responsiveness on the impact of the twin hazard of smuggling and counterfeiting.

Tice

In order to address this issue at the highest levels of the government, FICCI CASCADE will present recommendations on a multi-pronged strategy on enforcement to curb counterfeiting, piracy and smuggling and suggest areas for collaboration between law enforcement, administrative agencies and industry.

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HIGHLIGHTS OF THE STUDY -'Invisible Enemy: Impact of Smuggling on Indian Economy and Employment'

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Mr. Kaushik Dutta Founding Director, TARI

Highlights of the Study - 'Invisible Enemy: Impact of Smuggling on Indian Economy and Employment'

ndia ranks 49 among 84 Countries in the Global Illicit Trade Environment Index 2018 by Economist Intelligence Unit and needs quantifiable actions to bring down the risks of illicit trade on the economy. Three of the four pillars of illicit trade environment, which is government policy, demand and supply of goods and services and customs environment, India ranks among the third quartile of the 84 countries. The area in which India ranks 35 is transparency of trade. The objectives of the study





were to identify and select five key industries that are significantly affected by smuggling, quantify the levels of smuggling in these industries during the period 2015-16 to 2017-18, estimate the direct livelihood opportunities in these industries due to output foregone because of smuggling and estimate the total livelihood opportunities in the economy due to linkage of these industries with other sectors of economy.

The study first estimates the size of imports and exports by using UN Comtrade data. This data gives total exports and total imports from a country, at any given year, there is a gap between imports and exports. For the estimation of smuggling and output loss 4-digit HS codes of key kndustries are identified and mapped and exports reported by all the partners countries for product A to India, is cross checked with DGFT database and is compared with imports shown by India, the balance is estimated as smuggling into India. It does not capture type A smuggling, which includes smuggling that has not been entered as an export by a country A and neither in import data of India. Thus, outright smuggling is not captured. It includes other types of smuggling such as type B smuggling, which is exports by one country and not shown as imports by India and type C smuggling which means all those smugglings which happens through under declaration or misclassification.

For the assessment of direct livelihood opportunity mapping of the key industries in the formal sector (Annual Survey of Industries, MoSPI) and informal sector (NSSO 73rd round, MoSPI) is done and analysis of output and livelihood in both sector of the key industries is made.

Multiplier effect is an economic term. For example, a saree starts from a seed. There is involvement of agricultural inputs, fertilizers, pesticides, capital, agricultural labour etc. The designs will have 40/50 different points, from yarn to threading, weaving, looming, designing, embellishment and others, which is called multiplier effect. It is an invisible effect that happens between a product and its backward linkages. It's a large matrix which the government of India takes out and is used globally called as Leontief 's methodology of input output ratio and then government's National Council for Applied Economic Research (NCAER) come with publicly available set of matrix in 2015-16, from this the total impact on economy is calculated for each industry.

	Smuggling and Output Loss to Domestic Textiles Industry						
Year	Smuggling (Rs. Crore)	Imports (Rs. Crore)	Smuggling as Percentage of Imports	Total Industry Output (Rs. Crore)	Smuggling as Percentage of Industry Output		
2015-16	5417	26172	20.7%	448449	1.21%		
2016-17	6717	29077	23.1%	470160	1.43%		
2017-18	5276	30233	17.5%	492922	1.07%		



The smuggling percentage in textile business hovers around 20% of the total imports, which is large. While smuggling percentage as of total industry output is roughly about an average of 1.25%. Textile industries have got huge amount of backward linkage into labour and agricultural, and thus it has very high employment coefficient in it. High smuggling of textile has got disproportionately high amount of employment or livelihood opportunities that are lost.

Smuggling and Output Loss to Domestic Readymade Garments Industry							
Year	Smuggling (Rs. Crore)	Imports (Rs. Crore)	Smuggling as Percentage of Imports	Total Industry Output (Rs. Crore)	Smuggling as a Percentage of Industry Output		
2015-16	3780	3668	103.0%	201271	1.88%		
2016-17	4594	4031	114.0%	209407	2.19%		
2017-18	5509	4437	124.1%	217871	2.53%		

Textile business gets value added into readymade garments. The number of smuggling percentage of imports is quite alarming. Value of smuggling is higher than the legal imports. India has large porous borders; very high labour arbitrage and thus huge amount of smuggling occurs in readymade garments. Smuggling of industrial output in readymade garments is roughly about 2% of the total output.

The difference between smuggling and counterfeiting is that in smuggling there is no value addition that happens in a country. Which means, the entire product gets imported and the only thing left for a country is point of sale. In this manner, a country misses out on all backward linkage. Therefore, smuggling has a very huge devastating effect on economy.

Smuggl	Smuggling and Output Loss to Domestic Tobacco (Cigarettes) Industry						
Year	Smuggled Cigarettes (Million Sticks)	Smuggled Cigarettes (Rs. Crores)	Industry Total Output (Rs. Crores)	Smuggling as a Percentage of Industry Output			
2015-16	8792	7183	50381	14.26%			
2016-17	9531	7729	46831	16.50%			
2017-18	10870	8750	43531	20.10%			





In the tobacco industry seizures are as high as the imports, so consumption factor is used to calculate smuggled markets. Smuggling as a percentage of industrial output is increasing and it goes up to 20% in 2017-18. Seizures are increasing significantly, and the penetration of cigarettes and tobacco is very huge which means how widely smuggled products are distributed.

Smuggling and Output Loss to Domestic Capital Goods (Machinery and Parts) Industry					
Year	Smuggling (Rs. Crore)	Imports (Rs. Crore)	Smuggling as Percentage of Imports	Total Industry Output (Rs. Crore)	Smuggling as a Percentage of Industry Output
2015-16	17556	197005	8.9%	313935	5.59%
2016-17	17900	204551	8.8%	352076	5.08%
2017-18	18425	217345	8.5%	394850	4.67%

In case of Machinery, there is no outright smuggling as they are big pieces. Thus, in machinery, there is under declaration or misclassification to get tax benefit or depreciation. Misdeclaration as a part of industry output in machinery is about 5% which as a part of total capital machinery imported by India is fairly a large number.

Smuggling and Output Loss to Domestic Consumer Electronics Industry						
Year	Smuggling (Rs. Crore)	Imports (Rs. Crore)	Smuggling as Percentage of Imports	Total Industry Output (Rs. Crore)	Smuggling as a Percentage of Industry Output	
2015-16	1423	143739	1.00%	951700	0.15%	
2016-17	14904	143159	10.40%	117852	12.65%	
2017-18	9059	180210	5.00%	145940	6.21%	

In case of Consumer electronic, roughly 56% of the total consumer electronics is handphones. In handphones, total imports go up significantly, so does smuggling. In 2016-17 the number significantly goes from Rs. 1453 crore to Rs. 9059 crores and about 66% of total trade of the industry is smuggled.



Dire	Direct Livelihood Opportunities in Key Industries (Lakh)					
Year	Textiles Industry	Readymade Garments Industry	Tobacco Products (Cigarettes)	Capital Goods (Machinery and Parts) Industry	Consumer Electronics Industry	
2015-16	0.79	1.68	0.89	0.71	0.016	
2016-17	0.93	2.06	0.95	0.69	0.16	
2017-18	0.7	2.49	1.06	0.68	0.08	
Opportunities in Informal Sector	76.10%	87.90%	88.60%	42.90%	32.30%	

The direct livelihood opportunities which is lost in textile, readymade garments, tobacco products, capital goods (machinery and parts) and consumer electronics industry is roughly about 500,000 in the year 2017-18. Loss of opportunity in informal sector is roughly about 88-89%. These sectors employ poor, rural India which includes very small home enterprises. This implies that poor section suffers highest brunt of livelihood loss or displacement when it comes to smuggling of highly labour-intensive products. In capital goods and consumer electronics, manufacturing is low, therefore the loss of opportunity in informal sector is much higher.

Industries	Output	Total Employment Backward Linkage (Per lakh Output)		Employment Multiplier
Textiles Industry	2.395	0.495	0.156	3.172
Readymade Garments Industry	2.635	0.853	0.617	1.381
Cigarettes	1.844	0.391	0.124	3.146
Capital Goods (Machinery and Parts) Industry	2.849	0.270	0.030	8.970
Consumer Electronics Industry	2.368	0.196	0.013	14.872





The total multiplier effect in textiles, readymade garments and cigarettes industries is very high. Every unit of loss in each of these sectors, the employment multiplier goes to 3-4-5%. In consumer electronics, even though the number is very high but since the manufacturing is low as compared to other industries, the total quantum of job loss is small. The ones which is most affected has high backward linkages right up to agriculture or mining.

	Total Output Loss (Rs. Crore)							
Year	Textiles Industry	Readymade Garments Industry	Tobacco Products	Capital Goods (Machinery and Parts) Industry	Consumer Electronics Industry			
2015-16	12974	9960	13248	50035	3370			
2016-17	16087	12105	14256	51015	35293			
2017-18	12636	14516	16138	52511	21452			

Total output loss in all the mentioned industries is around a Rs. 117000 crores out of which direct effect amounts to Rs. 48,000 crore and rest is induced effect (indirect effect arising out of multiplier effect).

In conclusion, overall total quantum of smuggling is increasing except consumer electronics, which does not show linear trends and it has fluctuated continuously. The reason could be tax arbitrage or global demand. Seizure data shows that the penetration of smuggled goods specially tobacco and readymade garments is increasing, and it is becoming very pervasive. Direct livelihood opportunities in these five industries are increasing and stands at 5.01 lakh for year 2017-18 if output foregone due smuggling is accounted into these industries. And about 3.55 lakh direct livelihood opportunities (71 percent) are alone available in the readymade garments and tobacco industry, where informal sector accounts for 88 percent of total livelihood.

Way forward

The way forward is technology, surveillance, cooperation and most importantly, awareness. There are lots of technologies that India has started using, especially in surveillance like in ports where there are big scanners and other tracing mechanisms and preventive checking of goods. Under the government policies and law enforcements, India has very low ratio of policeman to citizen which is a proxy for oversight. Technological improvement along with strong law enforcement could make the condition better. Tracking and tracing of goods from one point of origin to other point of receiving in India requires huge amount of global cooperation and each 183 countries should work on it. Thus, movement of large countries and for valuable products or products which get smuggled more needs to be prioritized.

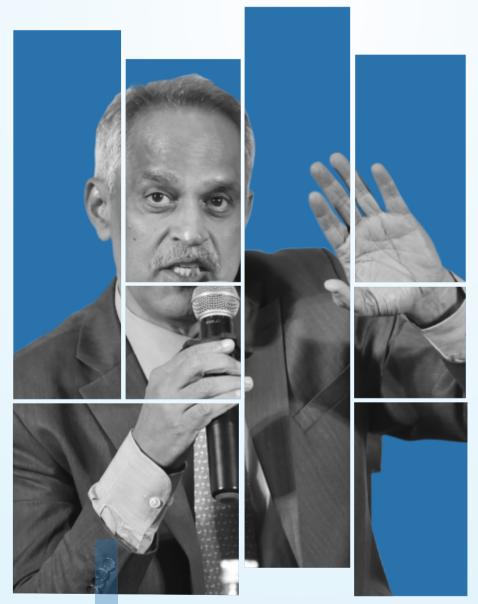


LOOKING BEYOND BORDERS-Balanced, Holistic and Futuristic Strategies

Outlining the state of the global problem of illicit trade, its visible outcomes and measurable impacts Harnessing the potential of multilateralis m through intergovernm ental actions Effective monitoring and inspection of FTZs to ensure legitimate trade flows in order to avoid FTZs from becoming 'hotspots' for illicit trade and organized crime Designing effective global strategies and improving regulatory framework



am happy to be here for the 6th edition of MASCRADE, 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). The continued success of the Conference is both an indication of the extent of the problem and the contribution which this Conference makes to policy makers engaged in combating this menace .



Mr. Najib Shah Former Chairman, Central Board of Indirect Taxes

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





It is necessary that the extent of the problem be put in perspective. The World Economic Forum (WEF) estimates the volume of illicit trade of only goods being to the extent of \$650 billion and that the economic leakages from illicit trade 'create an annual drain on the global economy of nearly 2.2 trillion USD-nearly 3% of the world's economy. This is mind-bogglingly humongous -and apart from the fact that this is money which is lost and which otherwise could have been used in very many social and development related work, is the sinister linkage between such illicit financial flows and terrorist activities and which has been eloquently brought out by speakers in the inaugural session. As has been pointed out by the WEF while everybody does express concern the response has been disorganized. In this background the first session most appropriately titled Looking Beyond Borders with various sub-themes namely:

- Outlining the state of the global problem of illicit trade, its visible outcomes and measurable impacts
- Harnessing the potential of multilateralism through intergovernmental actions
- Effective monitoring and inspection of FTZs to ensure legitimate trade flows in order to avoid FTZs from becoming 'hotspots' for illicit trade and organized crime
- Designing effective global strategies and improving regulatory framework addresses this very concern.

Countering such a menace which has global over tones, requires an understanding of and co-operation between institutions globally engaged in tackling this problem in their countries. Unfortunately, no country can claim to have eliminated the problemeverybody has had varying degrees of success and all countries have paid a price. Tragically, illicit operators display greater cooperation amongst each other across countries than what governmental institutions do -both within a country and across borders.







Mr. Huw Watkins

Head of Asia Policy Intellectual Property Office, UK

Mr. Julian Saldanha

First Secretary, HM Revenue and Customs, British High Commission





Facts and Figures

• 2.5%	Of exports worldwide are counterfeit goods	Governance Frameworks to Counter Illicit Trade
• 6.5%	Items used in IT and communication are counterfeit	
• 4-5%	Goods imported into UK are counterfeit	
• 6th (6%)	In world counterfeit production – India	

OECD (2018), Governance Frameworks to Counter Illicit Trade, Illicit Trade, OECD Publishing, Paris, https://doi.org/10.1787/9789264291652-en.

The life cycle counterfeit goods can be described in the following steps



Ordering: Where are they (counterfeit goods) ordered?

Manufacturing: Where are they manufactured? Can the UK work with the manufacturing counterfeit or transit countries?

Shipping: UKIPO work with the shippers. What business can do to influence the shippers? UKIPO also works in the UK with fast parcel shipping. UKIPO with shippers that work on air. The UK government has created two posts in UK's border force which has led to very effective sharing of Intelligence.

Importation: UK looks how the goods are transported in UK because these goods then become a cash commodity and that cash transaction means that they are not paying taxes.

Wholesale and reworking: UKIPO has encountered shops places where goods are reworked, relabeled and rebranded. Working conditions at such locations are very poor leading to human exploitation.



Retail: the enforcement side of UKIPO is connected through all these steps and willingly shares information with international partners.

HMRC is almost analogous to CBIC in India. HMRC covers GST as well in the UK. All thw ay in the supply chain from importation to retail there is an opportunity for intervention from HMRC. HMRC closely works with the IPO in the UK. In India, HMRC closely works with the Directorate of Revenue Intelligence and have resulted in seizer of illicit goods.

The IPO decided 4 years ago to invest in training two enforcement officers in financial investigations. IPO referred cases to HMRC who then recovered £600,000 back into the treasury as a direct result.

On the issue of Free Trade Zones, IPO currently works with the Northumbria University and the Syracuse University. They work on free trade zones. Free trade zones are a bonus, a boon for trade, however there are also quite handy and significant for criminals. Due to lower custom intervention they also help in counterfeit goods move quickly through them. UKIPO will be interested to get in touch with any University in India who may be interested to work on this subject.

Bilateral Opportunities: B2B, B2C, G2B, B2G etc. are all relationships; if all work together then for both countries it could lead to ease of doing business.

Online counterfeiting is a menace. UK will soon sign an MOU with trading platforms in China/South East Asia and share details of counterfeit online with our International partners.

This issue is a significant problem in the UK. UKIPO would like to work with the government in India, with industry associations and the customs and see what they can do to assist.







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talian Guardia di finanza is military law enforcement, with over 55 thousand people involved in many fields of action in economic and financial matters. Financial investigations are our core business. Globalization has changed the economic system but has also encouraged illicit trafficking of goods. In recent times, Italy has seen seizures of unusual products. There is a large criminal organization keeping under control our markets and economics before it starts producing counterfeit goods so that it can decide what kind of product has to be made and where has to be placed. For these reasons there should be better use of our systems and organizations, in addition legislation and international co-operation are most important in law enforcement activity. Every country should have the same penalties for certain kind of fraud. This could facilitate cooperation and operations. Italy has a system called anti-counterfeiting information system, which was created to address the multidimensional and transversal illegal phenomena such as counterfeiting. It is imperative that all institutional bodies and players involved in combating the fake Industries should join forces. It allows close cooperation with all



Col. t. ISSMI Vincenzo Tuzi Guardia di Finanza Attaché, Embassy of Italy





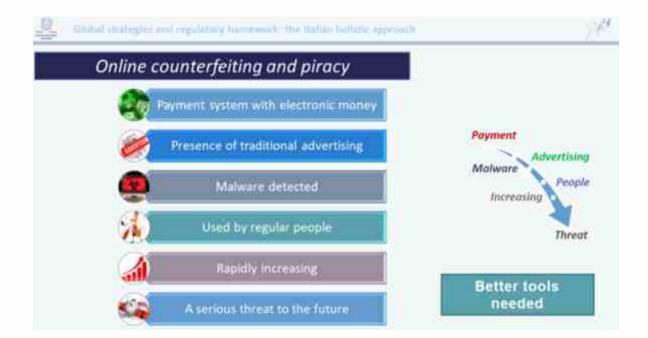
the stakeholders. This anti-counterfeiting system is based on a website. At the operational level the system allows IPR holders to work actively with the law enforcement by sharing information about their products that could be a target for fraud. On quarterly basis the IPR holders receive a report on fraud and any other information useful for the protection of their rights. On the other hand, the ground support units feed application with data concerning investigations which are carried out due to the operational support to IPR owners. This database gives useful feedback through data and risk analysis and for statistics purposes. This could be the starting point for further investigation projects launched by the special units and headquarter too on tactical and strategic level.



There is a need for attaching great importance to the economic and financial manifestations of crimes. Enforcing the law against infringements criminal organization is not completely dismantled until all its supporters or associates have not been brought to justice and the sources of its wealth have not completely been drained. This last goal is always to achieve with great tenacity and determination. In any operation on illicit traffic, it would always be necessary to refer to the follow-the-money phase! Encourage the creation of regulatory mechanisms aiming at locating, blocking and freezing any criminal illicit sources of revenues. Identifying and freezing illegal assets represents an important boost to the operational strategies to fight all criminal establishments, that gaining from the illicit trafficking. Italian authorities have already



taken action on several fronts, introducing very powerful measures, targeting illicit wealth accumulated, used and reinvested by the fraudsters. Criminal Code now provides that in all cases it is prosecuted for certain kind of fraud, a mandatory confiscation is ordered for: 'The things that serve or that were aimed at committing the crime and the things that are the price, the product, the profit, or that which constitutes the act'. When compulsory seizure of assets and proceeds, directly explicable to fraud offenses cannot be performed, the court may order the confiscation of sums of money, assets, or other utilities of an equivalent value to the price or profit ensuing from the offence and which the offender has the availability, although legitimately acquired with own capital or other incomes from third parties. This because of difficulties in the investigation for lack of useful proofs regarding the capital and the assets accumulated and reused by the perpetrators of fraud, using nominees, intermediaries and tricky financial channels, in order to hide the reconstruction of the links with the crimes. In addition, it can be applied the "disproportional confiscation" where a criminal conspiracy has been found. This means that it must always proceed to the seizure and later confiscation of money, goods and utilities assets whose origin cannot be found and that the fraudsters are the holders or have the availability even through a third person or entity, when their values are out of all proportion to the value of declared incomes or to their business. Regarding people who normally are dedicated to illicit trafficking and because of their standard of living that may be considered to live habitually, either in part or in total, with the proceeds of criminal activities, can be also activate the asset investigation and later preventive anti-mafia measures, both on personal and on assets profile, even separately regarding criminal investigations and procedures.



Internet fraud is worrying and rapidly increasing and reaching a large proportion and various kind of population. It is desirable to have greater and better tools to tackle this menace.









Mr. Tim Sheppard Counsellor (Australian Border Force) Australian High Commission

holistic approach to problem solving is one that looks at the complete system and assumes that everything in the system is connected. This method dictates that you can't fix only one part of the system in isolation from the others. Instead you need to treat the whole problem and approach the situation from multiple directions. In the spirit of holistic response, Australia has chosen to attack the problem of illicit tobacco from a number of different directions. Some of these relate to law enforcement but others relate to the regulatory system.





Australia's Illicit Tobacco Problem

Australia has amongst the highest tax rates in the world.

- Currently over \$0.90 a stick in duty.
- \$40 per packet vs. \$3 per packet in parts of the surrounding region (approx.)

Australia's illicit tobacco market (approx):

- Approximately \$600 million in lost revenue to the Australian Government per annum
- Equates to 5.6 per cent of licit tobacco market.

There are various estimates on the size of the illicit tobacco market in Australia within the public domain, it has been estimated it as 5.6% of the market which equates to AUD \$600 million in revenue per annum. Australia has the highest tax rates on tobacco products in the world, closely followed by New Zealand. Currently the amount of duty – or tax – paid on an individual cigarette in Australia is about 69 cents or \$1175 per kilogram of tobacco product. These high rates are an intentional strategy by the Australian Government to try and reduce the number of Australian's who smoke tobacco and to funnel the funds raised through duty, revenue and tax into medical treatment and harm reduction strategies and campaigns.

However a side effect of this is that makes the importation of illicit tobacco into Australia very attractive. The Regional Intelligence Liaison Organisation Asia Pacific reports that demand for illicit tobacco products remains high. In spite of legislation, including advertising restrictions, increased legal action and higher government imposed taxes, smuggling networks continue to meet the demand for illicit tobacco driven by a perception of low risk versus high reward. Duty rates are indexed twice a year with an additional 12.5% rise legislated for 2021. This will continue to grow the gap. It is becoming increasingly popular in Australia, when it comes to the importation and distribution of illicit tobacco; this is because it is perceived as a low risk enterprise in comparison to other illicit tobacco cigarettes imported into the Australian market has the potential to yield up to a 5000% return on the initial investment. It is probable that the profits from illicit tobacco are being used to fund other illegal activity.



Regional Recommended Sale Prices Smuggler's Potential Profit



Australia has increased the fines and prison terms for tobacco smuggling which is 10 years imprisonment, and the maximum penalty available for tobacco smuggling was five times the duty evaded. Despite the penalty increase in 2012, the majority of successful prosecutions have resulted in fines or short jail sentences, increasing the low risk/high reward perception by organised crime. The government of Australia's Black Economy Package is a range of measures in the 2018-19 Budget, designed to target the threats of revenue loss and other black economy activity connected with the illicit tobacco trade. In order to have the Law enforcement Agencies work more efficiently and effectively they were brought together to a single organization called the Illicit Tobacco Task Force. This ABF-led taskforce draws on the expertise and advanced capabilities of the ABF 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). The whole government approach allows ITTF to leverage off the intelligence and investigative capabilities from partner agencies. ABF has sized more than 600 tonnes of illicit tobacco estimated to about 664 million Australian dollars in evaded duty in last one year.

On the regulatory approaches, importation of tobacco into Australia has been prohibited from 1st July 2019. Bringing tobacco through airport limited to one





unopened packet and one open packet containing not more than 39 cigarettes. Australia has also changed the way of its approach to warehousing policy decision and has enacted law that says licensed warehouses, custom warehouses cannot store tobacco. All tobacco has to be cleared and duty paid on the border on arrival so no under bond movement of tobacco. This reduces involvement of criminal elements in theft and diversion from the movement of tobacco around Australia and from licensed premises. Act of legislation that allows immediately destroying seizure – has solved the issue of storing.

Australia has also ramped up the level of industry engagement. It has an illicit tobacco industry group with key player from the tobacco Industry that meets twice a year. It works closely with Industry recognizing that no group alone can handle this. The ABF's Border Watch Programme and the Illicit Tobacco Industry Group provide opportunity for industry to report suspected illicit tobacco activity.





SPTO has attaché offices all around the world. Currently they have 13 officers which are known as extension offices. Main purpose of this office is to work with government where they are based out of, work on various policy gap analysis and to see what the best cooperation and collaboration measures.

This office of USPTO has an IPR dialogue with all SAARC countries where trade issues are discussed with relevance to IPR for example: IP Dialogue with the Indian Government. Some of the issues which USPTO has been tracking include satellite piracy, drug trafficking, spurious drugs, cybercrime etc. With respect to India, the challenges USPTO faces with Indian government:

 Lack of awareness- This is not only at the government/ consumer or industry level. It is right from the bottom of the pyramid to the top; right from consumers to government. Lack of awareness not necessary

Ms. Shilpi Jha Senior Legal Counsel for Intellectual Property-South Asia, Embassy of the United States of America

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on IPR issues but to what the industry and government is doing. For example, Government of India has taken several initiatives, but many industry or startups are not aware of the same. That's level of lack of awareness USPTO faces.

- Lack of coordination- Customs and police have done good work in IPR protection. USPTO work closely with Telangana police unit as well as Maharashtra crime unit on seeing how cybercrime can be done with. Police themselves have been doing a lot but when it comes to coordination with the central government there is a lack of coordination because state and center have their own subject. There is also a lack of cooperation with industry, with industry and government. For example- The custom recordation system, many companies are not aware that they have to protect their right (brands) online with the custom recordation system. Also, when IPO in India already has a system, why does custom need to have a separate recordation system? Little coordination will save cost of resource, money and at the same time build up the coordination and collaboration between IP office and Custom.
- Fear of losing- Industries always fears that if in case they share too much of data information with custom/police that information will leak out similarly enforcement machinery or government entities feels that doing too much of work on behalf of Industry, Industry's responsibility will go down.
- Power Fight- USPTO works very closely with government of Bangladesh/Nepal on IP legislation and what it realized is that just to convince IP office of Bangladesh that customs have a role to play was so difficult. IP office felt that this was their domain and no other entity should come in. Need of the hour today with globalization and e-commerce in place is that we have to collaborate at international level not just sitting in silos in countries because the issues have just gone beyond borders.
- Lack of Appreciation for the changing scenario- It is very difficult to convince the government to think beyond their traditional laws. Having just setting rules and regulations will not help in the changing scenario. Appreciation for the change in the present economic/International scenario is very important. If not, a separate legislation one needs to come out with some kind of notification/circular which can have an immediate impact on the current situation. For example: an issue like satellite piracy, how is the government geared up to tackle it? An action-oriented guideline is needed.
- Conflict of interest: Many issues such as geographical indication among nations. IP is the only thing which goes beyond borders. Having an international IP charter can be looked at. USPTO has been doing regional conferences in the SAARC nations where customs, police, Judiciary and IP office representatives to talk about various issues and problems that they are facing in enforcing the laws and the gaps in enforcement.



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- Regional MOUs: USPTO and Government of India have an understanding that there will be working towards cybercrime. Similar MOU's will be really helpful when we are talking about regional/International corporations.
- Regional Coordination- Custom officials from SAARC Nations should have regional coordination system / Centre where one senior Custom Official from all these countries should meet quarterly to understand what the issues between the borders are.
- USPTO does lot of regional workshop and inter- regional programs as well. It also sits with other missions will like United Kingdom, Italy, Australia etc. and discuss areas of concern which are being commonly faced in a particular country. All institutions need to voice together to address the problems and come out with solutions.
- USPTO also collaborates with as many industry associations and see that all stakeholders' issues are met with.

Session

LESSONS TO LEARN: Speak your mind to make a difference: Case Studies from FMCG Sector





hat is illicit trade

OCED defines illicit trade as trade in prohibited goods and services or irregular sale of regulated commodity i.e. when commodities are legal, but trade does not confirm to the boundaries of regulation, or intentionally evading taxes or/and trade in stolen goods.

Scale of illicit trade

The scale of this problem is huge, 10% of the global GDP is siphoned off in the area of illicit trade. US\$ 750 billion to US \$ 1 trillion is just the US trade in narcotics, US \$650 billion is trade in counterfeit goods while in money laundering, figures run into trillions. The global estimate to tax loss in cigarette smuggling is as high as US\$ 50 billion i.e. almost Rs. 10,000 crores per year.

Smuggling leads to tax evasion causing loss of revenue to the government and there are various studies that suggest the link of smuggling to crime syndicates and terrorists' nexus, not just in India but there is rife news about nexus in Albania, Romania, Macedonia running Mediterranean racquets. Northern states of India are surrounded

by Afghanistan, and Pakistan and the North eastern states are affected by both cross-border smuggling as well as social instability.

Cigarette often becomes a currency for trade as the value of bulk is very favourable, next to gold. Regulations within domestic trade are onerous and rigorous but the penalty is low. People equate cigarette trade with tobacco trade but cigarettes only account for 10% of the total tobacco consumed in India, however, it accounts to 86% of revenue from the tobacco trade. There is much higher degree of taxes on cigarettes which leads to increase in prices in India as opposed to surrounding markets, creating a natural incentive for people to trade illegitimately and illegally whether domestically or across borders.

This is not unique to India, generally almost 10% of total trade is illicit and illegitimate across the world. In developing countries, it often goes as high as 16-17%, even in developed countries its almost 10%. Euromonitor names India as the 4th largest illicit cigarette market in the world and in terms of penetration of this product one in four is an illegitimate product in the market, in the last 5 years it has





grown by almost 33% from one in six products to four now. The magnitude and scale of this problem is of epidemic proportion. The no. of seizures in just 2 years have increased from 1300 to 3000, and the value of product seized is around Rs. 200 crores.

It is a collective responsibility of all stakeholders in channelizing the flow of products into legitimate goods so that taxes are paid and the employment increases. There is a huge problem of under employment, people should work together and make all kinds of goods and services come under net of legitimacy, there have been various initiatives from the government to get all the industries into the path, but collective efforts are required. Slow rate of prosecution acts as an incentive for evaders, as the punishment is not certain and there is lack of information. It's a well-established industry and counterfeiters easily move their operations in the time lag between information and seizures.

What can be done?

Industries should be engaged with other stakeholders like regulators, legislative bodies, enforcement authorities and all should work in engaging the entire ecosystem in spreading awareness about this subject and people should also understand the severity and gravity of the situation.

Several technological solutions are available to overcome illicit trade such as overt and covert features (like encrypted text), track and trace technology and making the product tamperproof, however, it makes the product consumer unfriendly, so it needs a balancing act. In creation of awareness, support of media including social media is needed to propagate, understand and report the menace. Activities such as continuously modernising and changing the product and its aesthetic so that it is difficult to keep copying; operating trademarks in various geographies, registering them and ensuring that they are enforced. In various industries many features have been adopted but industry should look internally to make the processes better and make it difficult for the illegitimate elements.

In the present ecosystem, cigarettes industry has bodies like DRI, customs, legal metrology, the state tobacco control cells which are making great efforts for tobacco control in the country. However, there should be improvement of surveillance in intelligence, as no. of seizures are doubling almost every year with the value, but the size and scale of evasion is much higher. The lawmakers should increase the punishment for the offenders. Illicit players can be stamped out of the total ecosystem by having punitive laws which punish the whole act. There should be clarity for such cognizable offences and clear parameters must be laid out for the ease of booking them by the enforcement agencies.

The Indo-Myanmar Border Trade Agreement gives a very narrow definition for legitimate cross border trade. People use this agreement as a cover for indulging in these illicit activities and high rates of taxes creates tax arbitrage opportunity, which needs to be considered. Another aspect is legal procedures should be made friendlier, as enforcement authorities seize illicit products, but they are auctioned back into the market. Enforcement officers must be incentivized and rewarded in order to give encouragement and support so that they continue this battle and help contribute towards the economic well being and prosperity of the country. There is a need for many more people to partake in the fruits of economic growth and get more and more products into the legitimate value chain, legitimately pay taxes and be proud to be consumers of legitimate products.



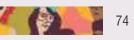


Mr. Milind Palany Senior Manager, Global Brand Protection India & South Asia, Johnson & Johnson ohnson and Johnson blend heart, science and ingenuity to profoundly change trajectory of health for humanity. J&J pioneer solutions to deliver better health within the brand protection enterprise to safeguard people, business and brand equity against risk posed by illicit trade.

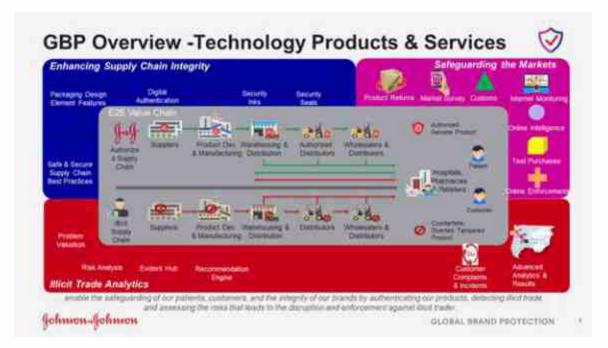
J&J enriches and enhances supply chain integrity that is a proactive part, second is the reactive part where safeguarding of market is done by illicit trade data analytics. It follows an E2E value chain which starts with the authorized supply chain, it goes through 4 or 5 layers and at the end an authorised genuine product is supplied.

J&J ensures the following:

- Digital authentication
- Product protection security features such as security seals
- Safe and secure supply chain
- Destruction of counterfeit products
- Proactive market surveys
- Internet monitoring and online intelligence
- Test purchases and online enforcements
- Online illicit trade enforcement program
- Customs Programmes

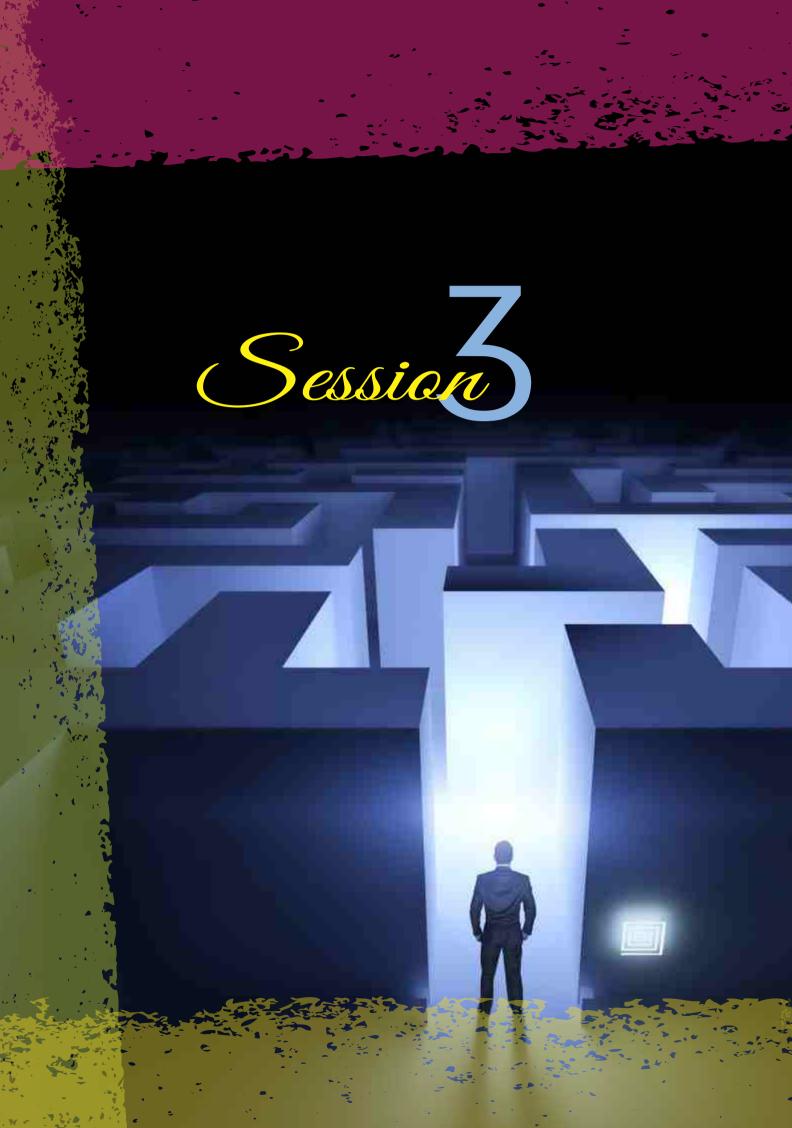






There is a need to record trademarks with the customs not only in India, but in neighbouring countries as well. J&J collaborates with multiple partners and conduct capacity building programmes for enforcement officers such as police and customs. J&J also do enforcement which includes both criminal and civil actions. J&J works close doors with FDA, in certain cases a court order is needed, and civil action is taken while sometimes it is imperative to do a market sweep and a criminal action is taken. At times there is a need to scale up the investigation to understand the upstream illicit supply chain for which cross border investigations is done. One more important area which is coming up in India as a growing economy is an online illicit trade enforcement program. Which involves monitoring the market, gathering intelligence on the online space, do enforcement actions, work with B2B and B2C platforms to get the illicit trader down and lastly do online to offline investigation.

Industry must collaborate and share information with each other about the sellers and traders who sale counterfeit products online. A lot of proactive market surveys are done within our country to identify hotspots and some covert sample purchases and overt sample purchases are made depending on the scale of the problem. J&J has a product protection security feature which has various levels of security, like digital fingerprint, QR code, macro prints, adding some uniqueness to the product etc. There are a lot of supply chain related risk like theft, pilferages, leakages, etc. hence collaboration is done with global security to ensure these internal threats are stopped within the organisation. There is an opportunity to add more checkpoints in the risk management system within the IceGate of the customs department. There is also an opportunity to track the audit trail and add more stringent monetary penalties and legal actions can be taken on online sellers and traders who are involved in the business of illicit trade., which can further be blacklisted.



ADDRESSING THE CHALLENGES AT HOME-

Balancing Brand Security Strategies and Actionable on Ground Operations

Robust assessment and greater vigilance to control counterfeiting and smuggling Sharing data and awareness initiatives to garner public support and spur governmental actions Approaches to facilitate coordination, enhance mutual learning and police illegal activity Reshaping the future of brand protection through technological solutions





Mr. Hem Kumar Pande

Former Secretary, Ministry of Consumer Affairs, Food and Public Distribution, Govt. of India and Think Tank Member, FICCI CASCADE

he issue of counterfeiting and smuggling needs focus on two things: Awareness and Enforcement. This is the age of circular economy that is sustainable rate on investment. Hopefully, industry while trying to get a sustainable return of investment, is also aiming that the consumers remain interested in the brands. That's when the brand will remain secure and sustainable. Challenges in enforcement of illegal and spurious activity will always remain work in progress, but consumer awareness will remain the key. Using technology to address this problem has its flip side too, as counterfeiters are also are using technology, so one must see how best we can use technology to contain this menace. Consumer awareness in India is still in its infancy. Government of India has a multimedia campaign "Jago Grahakh Jago". Industry should focus more on consumer awareness as it is not possible for the government alone to carry out consumer awareness campaigns on this issue. Hence brand protection strategies should also include awareness amongst consumers, if sustainable rate of investment is required.





Beiersdorf is a story of good self-help, good practice and success. Success is a fleeting joy and only comes with hard effort, focus, training, but one can very easily lose success if one takes the eye of the ball. Beiersdorf has been quite successful in tackling this menace. Beiersdorf has a strong research and development mechanized assembly lines having highest quality hygiene. Skin care products are being counterfeit in South East Asia also in Pakistan with very poor quality of hygiene maintained. The 5 key problems in skin care.

Deception | Health risk | Cost | Reputation | Economy

For a skin care brand, trust is everything, the consumer has to trust that product otherwise they will stop buying it. 12-14 years ago, Beiersdorf realized that they were facing of growing problem. This growing problem was only a tip of the iceberg, so a brand protection unit was created and started to evolve a strategy of prevention. Through this the organization understood the sheer scale of the problem that Beiersdorf and other brands were facing.

Mr. Cameron Walker

Regional Brand Protection Manager, Middle East, India and Africa, Beiersdorf

In India specifically Beiersdorf still face the challenge of cheap import from China, most of which are counterfeit. In India there is a massively large geographical area to cover and the lack of consumer awareness in smaller and rural areas in India increases the challenge. With regards to enforcement in India- the number of police officers to handle such cases is low. Brand owners have to depend on the authorities to help them enforce laws. Brand owners can only build a case, produce evidence to police, but cannot take action. Police is busy in public law & order cases, safety and security or citizens, hence they are really stretched. Another challenge is the mistrust





between police and service providers. India also lacks a deterrent atmosphere on IP crimes. It is a known fact that counterfeiters are here to make money, it's all about margins as they are also businessman. They make cheap low quality without safety standards, not licensed, unregistered look like products; without investing anything in the making of the product which they are selling.

Beiersdorf has a 5 step prevent strategy-

- 1. Risk assessment
- 2. Investment
- 3. Intelligence
- 4. Education
- 5. Alternatives Other ways to do away with the problem.

OUR PREVENT STRATEGY Using 5 steps



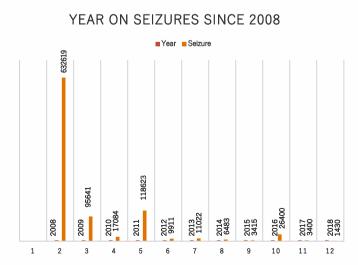
Beiersdorf has been successful because they continue to invest even when the numbers of counterfeit cases started to depreciate/go down. The organization has created an atmosphere overtime where many shop owners have said that they don't want to keep/sell counterfeit anymore because they're aware that they can get into trouble. Beiersdorf also has a dedicated internet site as online counterfeiting is a big





problem in India. It is an easy gateway for counterfeiters to sell their products. Beiersdorf also follows up for consumer complaints and do regular checks for notorious markets such as Sadar bazar and Crawford market in India. Continuous investment on brand protection strategies/anti-counterfeiting activity is required and Beiersdorf does that. The problem will not go away, because advanced technology is widely available which helps in copying and making replicas. Beiersdorf only uses trusted service trusted service providers which have the highest standards and meet the necessary compliance standards as well. Market intelligence is also a key area to focus on. Intelligence covers a whole wide spectrum of issues. It's about knowing your market, knowing your supply chain, understanding where the notorious markets are, profile the likely suspects and develop a strategy of intelligence gathering and enable required action. Finally, Beiersdorf also monitors consumer complaints carefully because many a times that is the lead, especially for e-commerce. Beiersdorf has a very elaborate e-commerce monitoring programme, that monitors Instagram, Facebook, Web etc. for complains with Nivea and especially for companies in South east Asia and China selling Nivea products which are high on the suspect radar. In terms of capacity building, the organization trains all their staff in identification of counterfeit. It's an ongoing program. The organizations also share as much as possible data with Indian customs, seizure profile's etc. It is also important to measure the impact of the various strategies undertaken. In terms of impact assessment, Nivea India has seen a big improvement in the Indian customs work. The organization has started to have many more seizures from customs.

'in Market' Seizures HAVE fallen as Customs DETECTIONS have Grown



Year	Seizure
2008	632619
2009	95641
2010	17084
2011	118623
2012	9911
2013	11022
2014	6483
2015	3415
2016	26400
2017	3400
2018	1430
Total	926028

81



Reports on fakes from markets have also come down from sales staff and from service providers. In some of the market the penetration of counterfeit of their products was almost as high as 70% but due to continued work by the organization in this area such as warning letters, training it has gone down to almost 10%.

INDIAN Customs has played a Key role



Year	Customs Seizure
2007	1668
2008	4062
2009	39612
2010	1914
2011	98928
2012	107280
2013	3000
2014	77032
2015	1728
2016	156
2017	
2018	219440
2019	2592
Total	557412

In conclusion the key message from Beiersdorf can be summed up as:

- 1. Brand owners have to make investment
- 2. Level of Education & awareness is key
- 3. Using tested service providers is key
- 4. Working in close partnership with government, FICCI and other brand owners.

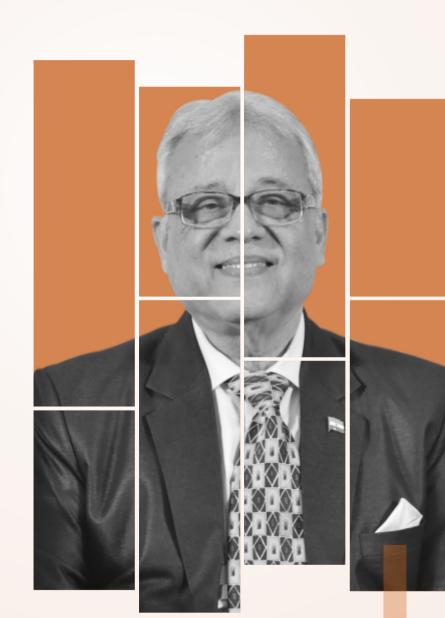






ICCI CASCADE is one place in the industry where a group of people have come together and committed themselves to work against counterfeiting. it's a big success story in terms of the industry initiatives in our country. When consumers buy any product, they buy based on trust and faith and the trust and faith grows out of the huge investment which the entrepreneur does in creating that product or service and reaching it to its consumers. So that investment which the entrepreneur does on the company invest on behalf of consumers is made sustainable by the consumers because the consumers believed that particular brand based on certain tangibles which come out of the product. So, when consumers have their trust and put their money then it becomes the responsibility of the brand owners to ensure that they give them value for money. Hence, it can't be that it's only the police or it's only the customs or it cannot be only the industry who are responsible to contain this issue of counterfeiting and spurious. It has to be a partnership initiative and it comes out of a commitment which you will demonstrate in terms of a person who pays for it and that's the consumers.

There are a number of laws, legislations, regulations code of conduct, ethical practices all around us but the most important



Mr. Bejon Misra Founder Consumer Online Foundation and International Consumer Policy Expert





thing is how a consumer is empowered to differentiate between 'asali' and 'nakali' as you pay for the real and genuine and not the fake one. Even when the consumer pays for the nakali, they pay as the aspirational value. They want to have a particular brand, but they know they cannot afford it, but they want to feel that brand in terms of just the name of it, not the value and hence they buy it. A strong partnership amongst stakeholders and accountability is missing. If the consumer feels it is a fake product even if it is not, the company should just change it, making the consumer feel that that he/she has taken the liability to share feedback. In India, a good robust, exchange, feedback policy is missing. If a consumer is cheated, he must get compensated.

The initiative- Partnership for Safe Medicine (PSM) has a clear objective that, if a doctor trusts a brand and a medicine is given then everybody in the supply chain should be able to say that whether the medicine is genuine or not. It is critical to create an evidence like PSM did through a government sponsored study, undertaken in a very scientific robust manner to figure out to what extent are certain categories of medicines in the supply chain are found to be spurious and or not of the desired quality standard. It was done out of 45000 samples taken out of vulnerable points, taking out in a scientific manner in a statistical, significant way to ensure that the data cannot be challenged. The study revealed that spurious medicines were 0.4% and not of quality medicines was 0.3%. 10% of such medicines were provided or found in government supplies.

What is required is a better understanding of tackling this menace. If India wants to reach the 5 trillion-dollar economy, then this is a serious business. if our country is aiming at more than 7% GDP growth then then this mission needs to be taken more seriously and the only way to do it is to be built an ownership, a commitment. CASCADE to create an eco-system and environment where all stakeholders should come together to address this problem and share feedback with the government. CASCADE has to take the leadership to ensure that eminent people in the community come together create a database and keep sharing with the consumers to shame and name those champions who are good and create an empowerment within the consumers to differentiate between fake and genuine.



The brand protection strategy at Unilever rests on three pillars.

Unilever a team of brand protection specialist. Have an inhouse capability to deal with these issues. Capability building internally and externally because that's what going to help tackle the problem efficiently. Increasing awareness and outreach programs. Brand owners as far as they can do should engage in this personally with their own might and efforts to take the awareness programmes ahead because that is what will get the message across and help resolve this issue.



he Government of India has done good work on its various initiatives be it the national IPR policy, IPR enforcement rules at the border, on the established of CIPAM for spreading awareness and upgrading the understanding environment amongst enforcement authorities. The 1st step to solving a problem is acknowledging that there is a problem, and this shows that we are on the right path.

Although there are enough laws that deal with counterfeit and how to tackle them, improvement in terms of implementation is required.

 Legislative hurdles: There are enough laws, but these laws need to evolve with an everinvolving environment.
 Counterfeiters are evolving so definitely there is a need to revisit these laws and look at

Ms. Vijayalakshmi Malkani IP Counsel, Hindustan Unilever Ltd.



the gaps and correct them if required. The National IPR policy of 2016 has one of its objectives to review existing laws and amend/modified them if required. There are certain provisions of the law which instead of enabling the right enforcement It ends up being a blockage or hindrance to effective enforcement. For example, Section 115 of the Trademark Act - leads to delay in enforcement of criminal actions.

- On ground enforcement: Although CIPAM and industry bodies have been conducting awareness sessions amongst enforcement offers, brand owners do not get enough and prompt support from the police sometimes in certain cities for criminal actions. HUL is grateful to the police authorities for their cooperation but in certain cities probably there is an awareness issue, hence, prompt help from police is lacking at times.
- Moreover, solving IP crimes falls much below in the priority list of the police. What is needed is feeding into the police that it is IP crimes which are also feeding into the larger issues of terrorism, trafficking and other illegal activities. Jurisdictional hurdles are also present at times. For example, if there are multiple targets across the city, brand owners have to go to multiple Police Stations to file a complaint.
- There is a need to develop a robust mechanism for tackling these issues. Some of the solutions to help tackle this problem:
- 1. Legislative amendments- can have a relook at them and strengthen them in line of the objectives of the national IPR policy.
- 2. It is proven that over 90% of counterfeits come from China. The customs at the border are doing a great job in tackling this issue, however since its known that this problem exists and statistically proven, can customs therefore inspect all goods from China irrespective of how they are declared or irrespective of how they come.
- 3. A reward and recognition scheme for the enforcement authorities should be in place. The customs have rewards for narcotics and gold, similarly it could be extended to IP. This will act as an incentive for the authorities to take this up more seriously.
- 4. Although CIPAM is doing a wonderful job on awareness generation to school students there is also a need to increase the awareness to larger consumers. As consumers are fascinated by the price points of such illegal goods, consumers need to be made aware that this crime feeds into larger issue of terrorism and trafficking. Ultimately it is a national issue and it will affect everyone individually as well because these counterfeits do have health and safety hazards. Hence, a behavioral change for consumers is required with respect to buying/using counterfeit products.
- 5. There is always a challenge for brand owners whenever there is an enforcement issue as to where do they go and register their complaint. A nodal center where the



enforcement agencies can talk to each other for speedy enforcement actions like the regulatory, the customs, the law & enforcement coming together. The information flows seamlessly among them through this nodal center so the issue can be handled efficiently and speedily.

- 6. Enhance the punishment for counterfeiters. It has been proven statistically and through studies such as from the Interpol that counterfeiters are hardened criminals. Though there are deterrent provisions in the law and enough actions have been taken against the criminals but many a times it is seen that these criminals go back and carry on the illegal activity which proves that the punishment is not deterrent enough. For such crimes/repeat offences non bail able provisions can be looked into.
- 7. Sometime small traders are not even aware that what they are doing is wrong. While counterfeiters run this business knowingly that it is illegal, for small traders this kind of activity could be means of livelihood. Government should look at some rehabilitation programmes for small traders where they are given some parallel employment opportunity.

It is imperative that this issue be looked at a national level - a problem of the nation and not merely something that is just affects the brand owners. It is only then robust solution to the problems at hand can be devised and implemented.









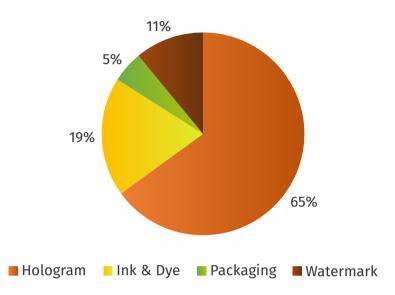
Mr. Divay Kumar Cofounder & CEO, 045

4S understands the problem and tries to give a robust workable solution to the issue of counterfeiting. O4S did a survey on the on the brand protection scenario where it took interviews of over 500 companies. It was seen that holograms have more than 65% of market share as companies feels that is the best to use at least some sort of brand protection on their products. Holograms can be replicated and are not a brand protection solution but still it is found on every other product.

As a technology company it is essential to build something which disrupts the entire domain and not proactively build something which does not confuse customers. Even if a brand is putting the best of the hologram, ink, packaging etc., and it is copied, then it





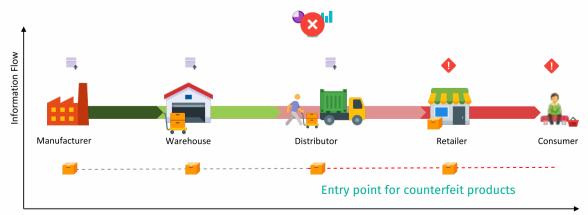


Anti-Counterfeit Packaging Market By Type

negates the entire effort and as a brand one will ultimately lose customer loyalty. So, technology companies in brand protection have to come up with something which is more proactive, more doable.

O4S technology is track and trace it's more about the implementation that they are getting expert at. Brands today are manufacturing products; they have ERPs for warehouses and then they sell to distributors. The problem comes beyond distributors where we have no visibility. Duplicators come in at the consumers and retailer level. O4S build a feedback loop from retailers and consumers level, so that if there is some kind of technology that they are putting in they get some kind of feedback.

The idea is about having a robust concept of unique IDs, every single product which the company manufactures has a fingerprint and that fingerprint changes with every product. This fingerprint is verifiable and is communicating two ways. Hence it is not copiable as it is changing with every product. Hence the entire agenda is making every



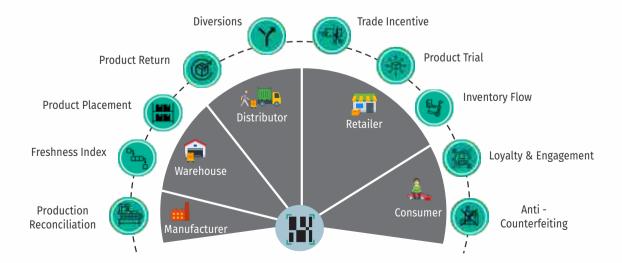
What you cannot see, you cannot control

Product Movement



product unique which problem solve the purpose of duplication. It is not difficult to build a program which can be implemented at a large scale to enrol lakhs of people into this engagement. The best thing which one gets out of it that because it is a dual communication, if a duplicator is doing some kind of mischief in the entire supply chain you get to understand the source of that which has worked best for us. In past three years of our existence, O4S have helped companies' crackdown on the biggest counterfeit cases which by no chance brand owners could have identified using legal enforcement. So as a technology company we are enabling and building programs with them merging couple of things making sure that once this technology is implemented on a product, how it is being used, how it is empowering customers, how more and more enrollment are coming and going to the extent of finding dual communication, which just not helps us in verification but also helps us in identifying leads where duplicate and suspicious requests are coming from and proactively working on loyalty on the consumers as well. These unique ID's are also helping in tracking the product which are in ownership of retailers, making sure that we are understanding the exact inventory at those particular places. Retailers will do this traceability because the scope of this initiative is not just limited to the legal teams of the companies but to also the marketing team of the companies where through a quantity/quarterly purchase scheme, where they are merged with the unique ids making sure that when the retailer is scanning a bulk for these product, they are getting direct benefit of using the existing budgets only. Making sure that the retailer is also getting genuine products and taking part in this traceability program and helping in understanding the data of product which is lying those tier 2 & 3 cities where there is no direct connect with.

So this entire program of traceability is solving a lot of challenges making sure that there is just not one way communication, bringing and making the entire eco-system of a company part of a program which is helping everyone work in a trustable, more comfortable robust real-time supply chain.



Supply Chain Visibility has multifold benefits





Welcome and Opening Address





Mr. Sanjeev Tripathi Former Chief of RAW and Think Tank Member FICCI CASCADE

Since its inception in 2011, FICCI CASCADE has been working relentlessly to create awareness and sensitize all concerned about the harmful impact of counterfeiting, smuggling and piracy on economy, security, health, employment etc. CASCADE has been organising various awareness generation and capacity building programmes across the country. CASCADE gives special attention to the youth especially school children to create awareness through competitions and to the enforcement agencies through capacity building and also, recognises their efforts by awarding them.





FICCI CASCADE has also been organising international conference MASCRADE since 2013 to highlight the adverse consequences of this menace and to assist in evolving policies and practices needed to deter this activity. Although there is a general unanimity about the adverse impact of this menace, concerted actions to counter it in a holistic manner are still lacking. In this context the presence of two ministers in the inaugural session was quite encouraging, their keynote addresses made it amply clear that the government was fully aware of the adverse impact of illicit trade on national economy, national security, public health, unemployment, etc. they not only stressed that countering this menace was important for the government to meet its commitment to make India a 5 trillion dollar economy but also sought recommendation from various quarters in this area. The recommendations of FICCI following this 2-day deliberations at MASCRADE 2019 will receive due considerations of the government and hopefully going by the decisive nature of this government there would be some positive movement on them.

Eminent speakers and experts from different parts of the world discussed global and regional trends in the proliferation of illicit trade. They focused on harnessing the potential of bilateral and multilateral cooperation in addressing this problem, including helping in designing effective global strategies and improving regulatory framework. They also highlighted the importance of sharing data, awareness initiatives to garner public support and steps needed to establish cross sectoral and multi stakeholder framework for protecting the brand owners and the consumer interest.

We need to develop a better enforcement ecosystem. Stronger and effective enforcement is the need of the hour. Detection, investigation and prosecution are the main areas which require focused attention. In India a comprehensive policy at the national level to deal with the problem of illicit trade and counterfeiting is a must. There are several government departments and agencies dealing with various aspects of the subject in order to ensure better coordination among them and addressing the problem in a holistic manner, FICCI following the deliberations of MASCRADE 2018 had recommended the formation of a multi-agency centre comprising representatives from different agencies and departments dealing with various aspects of this subject. This will not only ensure better coordination and sharing of information among agencies but also facilitate proper and timely followup actions. The proposed multiagency centre should also have regular interaction with industry on the subject and encourage

CONTRACT ON

them to play a more proactive role in combating this menace. MASCRADE aims at evolving policy recommendations on a multipronged strategy to curb counterfeiting, smuggling and piracy.

STREADE 2011

STANDARD 2011



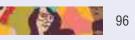


here is a need to build more interaction with the industry and enforcement agencies as India is aiming at 5 trillion-dollar economy. FICCI CASCADE is a unique initiative and its study titled "Invisible Enemy: The Impact of smuggling on Indian economy and employment" is a first ever compilation which studies smuggling and its impact on employment in India. According to this study about 16 lakh job losses have been attributed through smuggling. It studies the backward linkages and multiplier effects on the backward linkages which causes both direct loss and indirect loss of jobs on the Indian economy in 5 sectors namely textiles, readymade garments, consumer electronics, tobacco and capital goods.

Mr. Balesh Kumar

IRS, Director General, Directorate of Revenue Intelligence, Government of India

Need for a clear policy mandate having concrete elements to provide the impetus needed to contain counterfeiting, smuggling and piracy





Government has been taking very strong policy announcements on the kind of deterrence which is required and is strengthening the domestic industries with initiatives like Make in India, ease of doing business and with both fiscal as well as monetary measures announced over the last five years. Corporate taxes have been slashed to bring it on par with most of the western economies and the introduction of GST with its underline theme of one nation, one market and one tax has reformed the indirect taxation.

The conclusions and inferences of FICCI CASCADE study impinge upon the enforcement actions and the enforcement agencies. The first recommendation talks about strengthening of domestic industry. The second recommendation is reducing the demand and supply gap for illicit goods. It recommends putting in place a track and trace system, aiming at covering the entry of imported goods right up to its conjunction where it calls for a strong policing which will ensure that illicit trade is one of the priority areas for police. But policing in India is largely focused on anti-terrorism and maintaining law and order in the country, it may however, be challenging for them to make it a priority. But does India need more governance? In 1987, there were customs notified shops, selling imported goods which over a period of time became a den of corruption. It artificially limited the availability and the supply of such commodities in the market. Bringing it back may not be desirable.

The third recommendation is on law enforcement, it not only calls for effective enforcement, but also expeditious judicial decisions. Certainty of getting caught and pronounced guilty on the violation of law is needed. The fourth recommendation talks about leveraging technology which is happening, almost 95% to 99% passengers at the airports in India are walking through the green channel. The system has started reposing the trust in the passengers, trade and citizen of India. There is advanced passenger information system which enables the Indian customs to look at the risk parameters.

The study recommends live movement of the cargo goods, tracking them till it is delivered at the destination. Some of the customs authorities in the country have already initiated and are doing it, the containers are being moved under the e-SEAL system, but the tempering of e-seal is to be checked. The responsible citizen is the call of the hour as there is so much of trust being reposed by the government with the citizens.

The fifth recommendation is on capacity building. Customs department train its officers at the National Academy of Indirect Taxes and Customs and Narcotics. Training on GST was imparted to over 80,000 personnel of the central GST and the state GST tax administrations in just about a year. The sixth recommendation is on the risk management technique. The Indian customs department has instituted DGARM- Directorate General of Analysis and Risk Management, from 1st July 2017



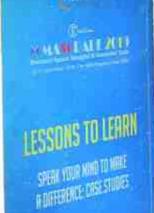
which works on huge data relating to GST. GST completely changes the way one does indirect taxation assessment, because it is based on transactions; and is a consumption destination-based tax. The directorate do data crunching, data analysis and draw certain parameters to alert DGRI and Director General of GST intelligence, which is the enforcement arm of the GST structure. The risk management techniques combined with certain non-intrusive measures is the best solution and helps in effective regulation without the need of tracking from entry to consumption.





Containing Counterfeiting

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The seventh recommendation of the study talks about better inter-agency coordination. There is a multi-agency centre running in the Ministry of Home Affairs. It has economic security agencies, DRI, enforcement directorate, the Directorate General of GST Intelligence (DGGI), certain income tax officials which helps in effective coordination. NATGRID is about to start which will provide a fantastic eplatform for exchange of information on a real time basis. The last recommendation of the study is on international cooperation, there is a multilateral framework for the customs department, under the World Customs Organization to conduct certain annual global operations on various targeted objectives.

Section 7C, 111 D, 113 D and 11 of the Customs Act cover type A smuggling, which means smuggling that takes place without crossing any customs barrier. DRI was formed in 1957, and its core competency is not merely in terms of detection and interception but also intelligence collection, collation, and dissemination. It looks at huge smuggling happening across India- Pakistan of weapons, terrorists, fake Indian currency notes, narcotics etc. The core competency of DRI lies on coastlines and it has a very distinguishing role from the customs department. DRI is the most important instruments for the Government of India as far as the economic security is concerned. DRI looks at some of the very serious prohibited goods, besides narcotics, wildlife antiquities and, which has serious repercussions on the black money, economy, trade-based money laundering as well.

A clear policy mandate is required to curb smuggling. There is a mechanism laid down and developed across the agencies by the Government of India but there is a need for greater enforcement action and collaboration with the industry. The functioning of the customs department has undergone a sea change where the custom's department is meeting the challenging and onerous responsibilities of firmly handling smuggling without compromising on the concerns of genuine trade.





Dr. Muktesh Chandra

Special Commissioner of Police (Operations) Delhi Police

rganized crime is not only related to smuggling, piracy, or counterfeiting, but in general it is affecting the crime scenario in India as well as abroad. As per Maharashtra Control of Organized Crime Act - MCOCA, organized crime has certain key elements such as it should have a crime syndicate, a group of people who are indulging for the common purpose of committing crime, it should have division of labour between the various participants in the crime which has certain experts or specialists. The most important part of an organized crime is communication, planning, organization and coordination between various components of this syndicate, and it is done for pecuniary gains.

When cyber element enters into an organized crime, there are two important things: communication and financial transaction. Many agencies intercept communication for prevention and detection of crime but introduction of cyber makes this





communication, interception very difficult. All these organized criminals are now operating on a different platform of financial transaction, which is very difficult to control or detect. Internet offers unprecedented anonymity. There is a Tor browser whose name is derived from the onion router, which means a person is browsing a free and open-source software for enabling anonymous communication. In this information is passed on from one server to another to another server and in the end, no one knows where from the information is coming.

Hosting of the website, its domain name, network's stable and secure operations is controlled by the Internet Corporation for Assigned Names and Numbers (ICANN). Many countries are offering bulletproof hosting which means one cannot find out who has hosted the website. Therefore, one cannot reveal the identity and lot of criminal websites are operating in this manner.

The visible internet is 10% and the rest is called dark web and deep web. The dark web is the hidden lane of crime, under which every illegal activity such as piracy, contraband and others are going on. These days financial transaction does not take place in rupees or dollars but in crypto-currency, bitcoins, or similar other currencies. In India, RBI banned all Bitcoin transactions and their conversion from the bank account to Bitcoin last year. Bitcoin is a virtual currency which can be encashed with absolute anonymity using unlocking password. India is yet to see a real operation in which actual bitcoins have been confiscated.

These days encrypted communication, like WhatsApp, telegram, etc are using strong encryption, which cannot be broken by many law enforcement agencies. Even forensic labs fail to decrypt the information. Naxalites are using PGP, which has a very strong encryption and most of these communication tools are free of cost.

Crimes such as murder, rape, or other violent offenses take priority and crimes such as counterfeiting, piracy are in very low priority area. In August 2018 Rs. 94 crores from Cosmos bank, Pune were taken by cyber gangs, and the money was withdrawn in 28 countries, in 15,000 ATM transactions in seven hours. Rs. 30 crores were withdrawn in Russia itself. In 2012, \$45 million were withdrawn in 27 countries in 40,000 ATM transactions in three days, the modus operandi was same. In 2016, \$12.7 million were withdrawn in less than three hours in 1400 ATM transactions involving more than hundred people. The problem remains that cyber is still not a priority for the law enforcement agencies. It is a multidisciplinary subject and needs technical competence to investigate a cybercrime case.

International cooperation and sharing intelligence are important. Technology is helping criminals, we need to leverage it for our advantage. There are various methods of analysing data, the big data using artificial intelligence. The use of technology for solving crime, prevention of crime and developing of actionable intelligence is very important. There is a need of police officers with technical bent of mind. Also there should be a strong criminal justice system, as severity of punishment is not so important as certainty of punishment.



LESSONS TO LEARN: Speak your mind to make a difference: Case Studies from Apparel Sector



hat do brands stand for? they represent trust. value. quality. originality and some of them stand as a symbol of status. How do the counterfeits look like? Are they easy to identify? No, they almost look the same. The brands when they are counterfeited witnesses brand dilution, low quality products, loss of revenue to the brands owners, loss of goodwill and of course black money and funding for illegal acts. As of 18th March 2019, the most effected industries by counterfeit products based on custom seizures were clothing and footwear amounting to 16% and 22% respectively. Top brand violations in 2017-18 -17% products are counterfeited products (clothing). But these invisible enemies are visible in the form of retailers who are selling, online vendors, direct selling agents, social media, distributors, and contract manufacturers. With regards to Indian e-Commerce, very recently a report was conducted, a dipstick survey by velocity MRA a Mumbai based market research, and it was seen that 1 out of 3 are counterfeit product in a marketplace, and the loss as per report is 3.4 Billion dollars.



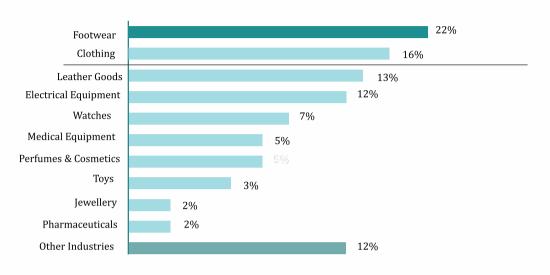
Ms. Jyothi V K

General Counsel & Vice-President Aditya Birla Fashion and Retail Limited



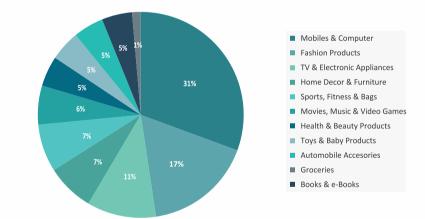


The most affected industries by Counterfeit Products based on customs seizures- 18th March 2019



The most affected industries by Counterfeit Products based on customs seizures-18th March 2019

Source: https://www.oecd.org/newsroom/trade-in-fake-goods-is-now-33-of-world-trade-and-rising.htm



Top Brands Violation in India 2017 - 2018

Source: Quartz India, visit: https://qz.com/india/1265698/one-in-three-indians-have-received-fake-products-frome-commerce-websites/

Remedies in law to address this issue- There is Indian Patent Act, Copyright Act, Trademark Act, Customs Act, there are both civil and criminal remedies. In spite of remedies available under the law, there are very low rates of conviction. There have been no convictions in the apparel sector. For judiciary, this is a non-priority matter, biggest concern is accused being set free on bail, because all punishments for trademark or copyright are punishable with 6 months to 3 years.

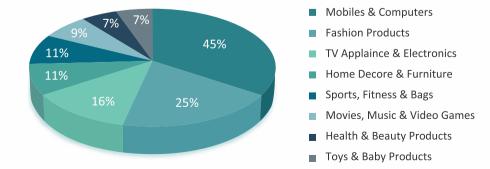


Lack of storage of seized counterfeits is also a practical problem. Sometimes between police and prosecution there is lack of coordination and inadequate punishment and fines, there is no severity and certainty of punishment. And recently commercial courts were established and they were supposed to try IP offences and bring down the burden on civil courts but the reality is that if there are 15 courts in India in a particular town and a commercial court has to be established, the very next day 14 courts become the civil courts and the 15th court becomes a commercial court, hence it's just a new tag for the court with the same judges and same court. Justice and expedited relief are difficult without trained judges in IP matters. Moreover, there must be a provision for recognition and rewards for Police, like the customs, which will incentivize them to take this up. Also, it is still not clear whether it is arbitrable or not arbitrable. The reality which exists is that - one can't go to arbitration, commercial courts are not there, civil courts are time consuming.

Online intermediary issue: safe harbour protection to intermediaries –They are taking safe protection under the safe harbour clause but in the process. While companies want to go against these counterfeiters or want to raise voice against the intermediaries- the online intermediaries play safe and say that they just act as a conduit. However, this not a fact as most of these online intermediaries play a very active role in augmenting the business online, they do the logistics services, they undertake support services for the buyer and the seller to come together but when it comes to checking counterfeit, they duck under this safe harbour provision.

Besides all these challenges the biggest problem is the mind set of consumers. Consumers are okay to buy products which say that they are 100% replica or copy. That is where the need for awareness kicks in, government level awareness kicks in. The government needs to talk about this like they have promulgated the Swachh Bharat Abhiyan. Government has been doing some corrective actions but there are some missing elements in the corrective elements.

In the draft national e-Commerce guidelines, anti-counterfeiting, anti-piracy has been dealt under the e-Commerce guidelines. One does not know when it will actually come and in reality, what it will read. But as of now it looks better, that at least they are putting some obligations on the platforms.



Indian E-Commerce & counterfeit problem





Consumer Protection Act is a welcome thing – unfair trade practice is selling of spurious goods is specially called out but if it has to be punished it should be punishable under the Consumer Protection Act it has to be that spurious goods manufacturer, seller, importer to be punished depending on the extent of grievous hurt caused to the consumers. Now, how does one establish grievous hurt in case of an apparel or accessory? As of April 26, 2019, in the United States priority watchlist, India has been put on priority watchlist for IPR violations. It's time to recognise counterfeiting as a criminal offence under IPC, Enhance punishment to more than 3 years, bail to be granted on execution of exorbitant security so that it becomes very difficult for counterfeiters to do such activity, mandate to state government to establish commercial courts, judges to be specially trained in IP matters, statutory damages in civil cases, like it is found in the US. There should be a separate cabinet for IPR enforcement as it exists in US. There is a need for a national IPR centre. Appointment of members of IP tribunal, appellate boards, the IPAB and reward schemes for state police on lines of customs.





Mr. Akshay Sangwan

Senior Manager- Brand Protection Puma Sports India Pvt Ltd

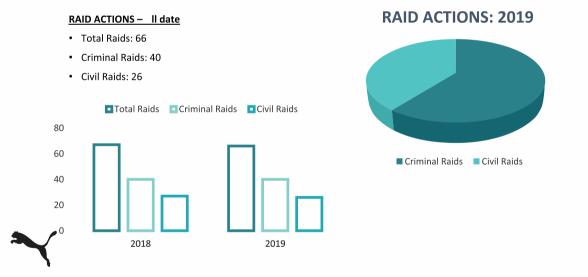
he term brand, what is a brand? The branding started during the Egyptian times, way back in 2700 BC when they started branding their livestock to distinguish their own animals from their neighbours. And that is what brand owners are doing. Puma as a brand does and a lot of brands do, to distinguish their products through marketing, R&D etc. Some of the key trademarks that Puma has is the logo - is currently a well-known trademark in India, and globally.





In the year 2017, Indians spent almost 19,000 crores on online shopping. However, 60% of the apparels and 40% of the sporting goods were considered fake. When it comes to counterfeiting there are basically two types of buyers– one who knows that they are going to buy counterfeit products, there is Palika market, Gaffar market, DLF phase 3 in Gurgaon for that. Then there are people who do not wish to go anywhere and would like to shop online. While shopping online, generally the buyer does not know what they are buying because that is how they are cheated.

Currently, Facebook has become one of the most upcoming counterfeits selling platform right now in India. It has beaten all the leading e-market places, like the Amazon, Flipkart, Snapdeal. Facebook and Instagram for example is another upcoming platform where you can find a lot of fakes. Now the problem when it comes to Facebook is that there are lot of closed groups. It's a platform for social networking but the trend that is emerging is that people are making closed online groups for counterfeiting. All the e-market places have taken several measures against counterfeiters and have become cooperative for last 3 years. They understand the problem of the brand holders, they are reacting to what brands are saying. Although a lot needs to be done, as they need to be more proactive when it comes to delisting the counterfeit listing.



STATISTICS - OFFLINE ENFORCEMENT

In the year 2018, Puma conducted almost 66 raids. This shows two things that the enforcement officials are cooperating with Puma and the secondly is that counterfeiting is at a rise. Earlier counterfeiters used to operate with a word of mouth because there was no online channel to sell their counterfeit products but now with the advent of Instagram, Facebook it is very easy to get products listed on Flipkart or



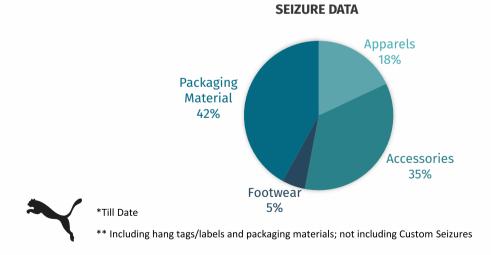
any other e-market place. The second concept is the concept of resellers that is on a rise in India and therefore the technology needs to be leveraged for Facebook and Instagram. This concept is that a counterfeit seller or an importer or a manufacturer will hire 10-15 people generally working in colleges, looking for extra money and he will give them certain commission on every product, as much as Rs. 500-600. So, this becomes very difficult to track and even if it is traced it becomes very difficult to get to the source of the manufacturers and the whole sale retailers.

When it comes to the challenges, Indian laws are very much in consonance with the international regime but however there is a lot that needs to be done. And majorly the challenges can be characterised as investigative as with Facebook and Instagram, it is humanly impossible for even a crawler that generally law firms or investigative agencies use to get into a close group and see what is happening. Also, in WhatsApp, where people are making groups and there is a huge sale of counterfeits that is going on. Procedural- the laws are lenient, and the police force is overburdened. Moreover, nobody takes apparel and footwear counterfeit seriously. Had it been a drug or pharmaceutical, the case would have been otherwise.

STATISTICS - OFFLINE ENFORCEMENT

SEIZURES (offline-India) in 2019*

Number of finished products seized (Apparel, Accessories and Footwear) : 1,98,196 pcs**



FDI - Any company that would like to invest in India would need to make sure that their IP is protected. Even Puma has developed a lot of product, it puts a lot in its research and development, and seeing nothing done about counterfeiters is very disheartening





for any brand. There is no recourse, deterrent measures when it comes to a habitual offender. People are carrying out this counterfeiting business through generations. So, even if they are caught and there is a raid action they will go to the jail and it's a bailable offence they will get a paltry fine and they are out of it. And it gets started again because that is the only line of business they know. So, a deterrence and rehabilitation are something that needs to be looked at very strongly. Government intervention is also required in areas such as checking of notorious markets- such as Palika Bazar, Gaffar Market. The government needs to monitor, close and shutdown these markets. When it comes to recommendations the e-market places need to be made more liable. It must be more proactive approach from the e-market places rather than a reactive approach. Creating awareness amongst enforcement officials is also something that is required. Consumer awareness is also important. FICCI is the biggest tool Puma has in terms of raising awareness amongst consumers and police officers. They have undertaken a lot of training with FICCI and they hope to continue the same.











Session Panel Discussion

ATTACKING THE ROOTS OF ORGANISED CRIME: Strategic, Operational and Technical Aspects of Smuggled & Counterfeit Trade and Pirated Content

Discussing the emerging crime trends and sharing successful practical solutions Examining the loopholes exploited by terror organizations to build their financial architecture for funding organised crime

Exploring new dimensions to strengthen security, governance and rule of law Developing expertise through specialized training system for effective detection, investigation and prosecution of criminal cases





rganised crime is a crime with a difference. Different jurisdictions have defined organised crime in a different manner. India does not have a national law, Maharashtra is 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 missing.

The concept of organised crime is more than one murder by a same gang over a period of time. Another thing in organised crime is it needs involvement of more than one individual and if they commit a crime on a repeated basis. Maharashtra government came out with an ordinance. The law says that if more than one

Mr. M L Sharma Former Special Director, CBI





individual commits a crime which is cognizable in nature and is punishable for more than 3 years and more than one charge sheet has been filed in the proceeding 10 years then the crime becomes an organised crime but it has to satisfy one condition that such crime is accompanied by violence/threat of violence or coercion or criminal intimidation.

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. Criminals are ahead of the law enforcement agencies as far as the use of technology is concerned. Law enforcement agencies have not been able to develop a technology which can prevent commission of organised crime. The law enforcement is behind the criminals, but the criminals are using more sophisticated technology. 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 which are much bigger problems. The effective enforcement of laws is required to holistically curb the problem of transnational organised crime. We need a national law to control and combat this organised crime.





nternet has played a huge role not only in the enforcement side but also in the criminal side. There is a need for countries to start communicating with each other. Interpol has made small progress on curbing this issue but still there is much more that needs to be done. There are countries dealing with internal problems and are dealing specially against these crimes as a local event. This is a crime which has no boundaries, hence countries should come together and share not only information but intelligence. Sharing realtime intelligence is a key factor required to curtail the menace of counterfeiting and smuggling. Mutual coordination and collaboration are imperative, exchange of information among countries will help curb the menace of illicit trade. Problem of smuggling and counterfeiting is not only happening in India, or in a particular region or continent but it is a worldwide issue. There is a need of collaboration between law enforcement agencies, industries and government. There are steps taken to ensure better collaboration between countries, however there is a lack of personnel enforcement law in different countries. We should have global laws because illicit rate is a crime which does not affect one particular nation.





Criminal Intelligence Officer, Illicit Goods & Global Health Programme, INTERPOL





s per OECD report the major illicit activities are tax evasion, fraud, smuggling of counterfeits, narcotics, followed by wildlife trafficking, illegal fishing and numerous other forms of illicit trade. Illicit activities are labour intensive businesses. Criminal organisations often masquerades as real businesses to take the advantage of cheap labour in order to run their illegal pursuits such as illegal mining operations or illegal harvested timber or packaging wildlife products, illicit tobacco, drug operation etc.

As transnational organised crime look for other ways to diversifies and find other streams of revenue human trafficking is also a large part of it besides raising funds from smuggling and counterfeiting. Corruption is a pervasive across the world and we need to find strategic perspective to frame a discussion on public integrity, including

how to fight corruption that acts as a facilitator of illicit trade. The office of US Trade Representative did a report in 2014 about Latin American markets which highlights that there are five countries that have major black-market malls which sells counterfeit goods and 90% of the money goes to organised crime, some part of the revenue earned was filtered back to the terror groups in Middle East and elsewhere. These things are not adequately publicized. There is evidence which suggest that 1993 World Trade Tower bombing was founded by Trademark infringed goods sold on the streets of New York. There is a need to aware the consumers that these are dangerous activities which funds crime and terror. It is very difficult for law enforcement agencies alone to fight such crimes, it needs cooperation of all stakeholders. One needs to strike balance and it could be different for different countries. There is a need to have one eye globally; communication, collaboration and education are the key to resolve the problem of illicit trade.

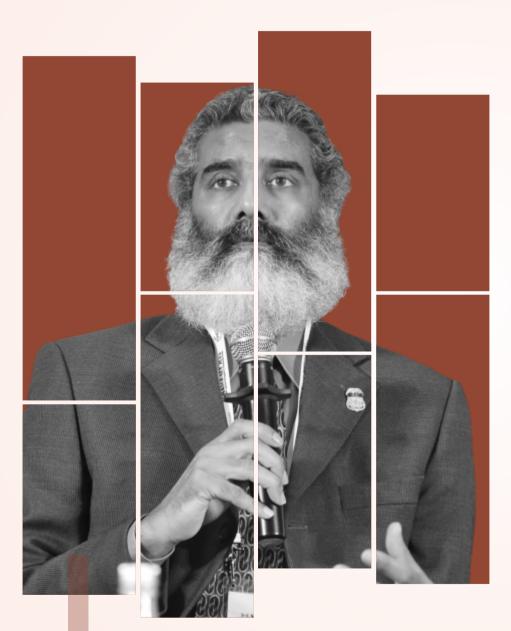


Mr. Elliot L. Harbin

National Programme Manager, Global Trade Investigations Division Department of Homeland Security, US



he reason organised crime still continues despite law enforcement and government efforts to address this important issue, comes down to the simple economic explanation i.e. the law of demand and supply. People have lack of opportunities in their country for a variety of socio-economic reasons and going to another location provides some measures of hope however slim it might be but still exponentially better than their current conditions based on gender, society, economic, education opportunities etc. There is tremendous incentive for people to better their lives and in doing so they are not always able to follow the right channel whether it is



Mr. Uday Devineni

ICE Representative, Department of Homeland Security-Homeland Security Investigations, US





due to bureaucracy, cost or time and that's where human smuggling organizations and transnational criminal organisations fills the void and provide a desperately needed service for people who are quite vulnerable. Often that smuggling relationships become a trafficking relationship due to threat of force, corrosion or other circumstances where the person being smuggled are made to believe that they are either economically liable or in some way servant to the smuggling organization. As long as people are desperate enough to seek better opportunities outside the country where they live, unfortunately, will be victimized and approached by these organisations and utilized as a mean for other criminal activities.

A multipronged approach is required which includes educating the society and consumers as it has a trickledown effect. In order to curtail cyber-attacks we need to put safeguards like manpower firewalls, highly trained professionals who could readily respond to any type of attack or get ahead of the attack and see when something is developing to provide the required protection to the society to be free to do business without any cyber intrusions.

Homeland Security Investigation, Chicago organize outreach and training programmes for local law enforcement partners to take necessary enforcement actions. There is a need for a very powerful and well worded laws specific to IPR enforcement as in the USA. So that one can partner with law enforcement counterparts and do rapid local investigations and with these strong local laws more enforcement actions are possible. There is a need to educate the public and have an ideal situation where we can work with multiple law enforcement partner agencies and also have strong laws that gives these law enforcement professionals an opportunity to work efficiently while also administrating penalties.





here are conclusive evidences by the investigation and intelligence agencies that the terrorist organisations are using counterfeiting, smuggling and piracy as one of the important tools to fund their organisations. Citizens must be very conscious as it has different segments- one is the illegal business and the other is the funding of terrorist groups. Organised crime is a growing menace. There is a need for a national law but apart from government initiatives a multi-pronged approach is required.

 There must be consumers awareness programmes to educate the masses about the various laws available and the crimes happening from counterfeiting, smuggling to cybercrimes.

Mr. Neh Srivastava

Under Secretary, Ministry of Home Affairs Government of India

- Industry should be given a statuary mandate from the government to utilize their CSR funds in creating consumer awareness.
- Enforcement officials should be given adequate training and capacity development.
- There should be proper judicial system like commercial courts dedicated for such crimes.
- A special task force must be established to handle this menace, which is under consideration by the Goverenemnt of India.

It is a dynamic system which is frequently changing, we need amendments in the laws to keep abreast with the changing scenario.





eople buy counterfeit products because they are cheap. Intellectual property rights law is in place and right holders can register themselves with the customs department. If any counterfeit product is reported then the right holders is called and once, he certifies the product is a counterfeit, it is confiscated and is not allowed to reexport rather it is destroyed. It helps in curbing the menace to some extent. Also, the seizures help in attacking the root of the problem.

Mr. Anuj Sharma

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n this age, the advent of technology has gone way beyond people's comprehension and has made things difficult for law enforcement agencies around the world. Crimes such as counterfeiting, smuggling, forgery, human trafficking, cyberfrauds are increasing with every passing day. Geographical boundaries, cultural, linguistics lines, have not been able to stop the entry of organised criminal gangs or outfits into a sovereign country. Criminals are adapting to the laws, tracking strategies and prosecution as well.

It was estimated that in 2009 transnational organised crime generated about US\$ 870 billion globally. In these 10 years huge amount of black revenue has been added, and threat has grown by leaps and bounds staking the security of the nation and turning in a cross-border issue. The society is yet not able to understand the complexities of this issue, but it cannot be completely veined away in taking part in the organised crime as



they consider it as a whitecollar crime, we therefore, need serious measure to clamp down this transnational organised crime. There is a lack of stringent laws on intellectual property rights. Human trafficking can now be classified as modern-day slavery. Hence, effective law enforcement along with awareness at a basic level to the enforcement officers as well as the general public at large is imperative. This crime has no linguistic barriers, sovereign barriers or geographical barriers, it needs cooperation and collaboration nationally as well as internationally to curtail the growing hazards of smuggling and counterfeiting.

Mr. Athar Khan Editorial Consultant, Times Now



CHOKING THE FLOW- Policy and Regulatory framework needed to Stop Counterfeiting, Smuggling & Piracy from Entering the **Virtual Marketplace**

Sessian

Measuring reputational damage and financial impact of online counterfeiting online trade and piracy

Insights on effective and verified procedures for monitoring distribution of goods and pirated products on the digital platform

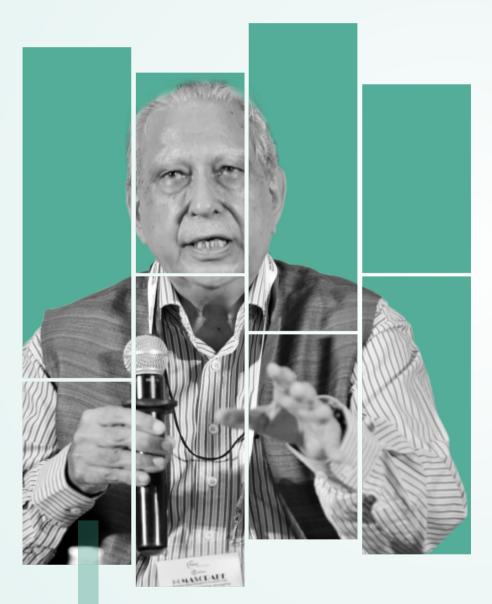
Exploring latest technology and strategies to secure and protect product available online

3

Establishing relationships and new areas of cooperation in the fight against online counterfeiting and piracy



-Commerce had a phenomenal growth indicated by fact that in 2017 the figures were USD 39 billion and is projected to rise to USD 200 Billion approximately in the year 2026. And 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 are propelling the growth of e-Commerce- the virtual marketplace in India. Last year in this space the leaders were electronics and apparel but now there are so many offerings such as travels, movies, medicines, hotel reservations, books, matrimonial services, electronic gadgets, cosmetics, footwears, fashion accessories



Mr. Narendra Sabharwal

Chairman, FICCI-IP Committee & Former Deputy Director General WIPO and Think Tank Member, FICCI CASCADE





and even groceries. And the liberal FDI policy of Government of India where 100% B2B in FDI is allowed is also fuelling the growth of this market.

The menace of counterfeiting and pirated goods is 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 same is also happening on social media platforms. Apart from counterfeiting, piracy has led to loss of billions of dollars in music and film industry. In the field of broadcasting, signal theft and unauthorized transmission of signals over the internet is rampant. Whether it is online or offline the dangers to society are the same, it leads to legitimate market loss and economic space which is occupied by unauthorised and grey market, loss of revenue for government, payment of extra taxes by common man, loss of jobs and the impetus to organised crime. Once the counterfeit or pirated goods find their way in the legitimate domestic channels, it is impossible to trace them and to stop their disposal.

E-Commerce has a special characteristic, as the whole model of e-Commerce somehow gives encouragement to copy. The product is visible with its defined characteristics which enables the clever counterfeiters to copy easily. Technological tools particularly artificial intelligence gives aid to creates a look like which makes it more difficult to distinguish between the original and its fake. One should take help of the same technology which the counterfeiters and pirates are using and to try and beat them at their own game. It's not easy as was said- Law is always a step behind but as far as markets and technology is concerned, it is right there at the head of all the developments. Brand and logo recognition through automation is done and is successful. Brand owners', marketplaces and even the 3rd party sellers are using these technologies and new innovations to counter the menace of counterfeits and piracy, which both industry and government along with consumers need to give encouragement. As far as government initiative are concerned, it is in the making.

IP policy was announced in 2016 and a whole chapter on strengthening, enforcement and adjudication to combat piracy and counterfeiting is dedicated. It states that best practices need to be followed, technological tools and training to enforcement agencies needs to be done, judiciary needs to be strengthened, both for training as far as for strengthening their competence by opening commercial courts to understand the intricacies of IPRs. And, there should be some independent surveys to find what is the extent of counterfeiting and piracy, lots of assessments are there but we need to have our own tools and methodologies to do that.

Guidelines for e-Commerce were prescribed in the e-Commerce policy which is out in the open and consultations are going on. It is for first time that in a government document, concrete steps listed for combating counterfeiting and online piracy are prescribed.



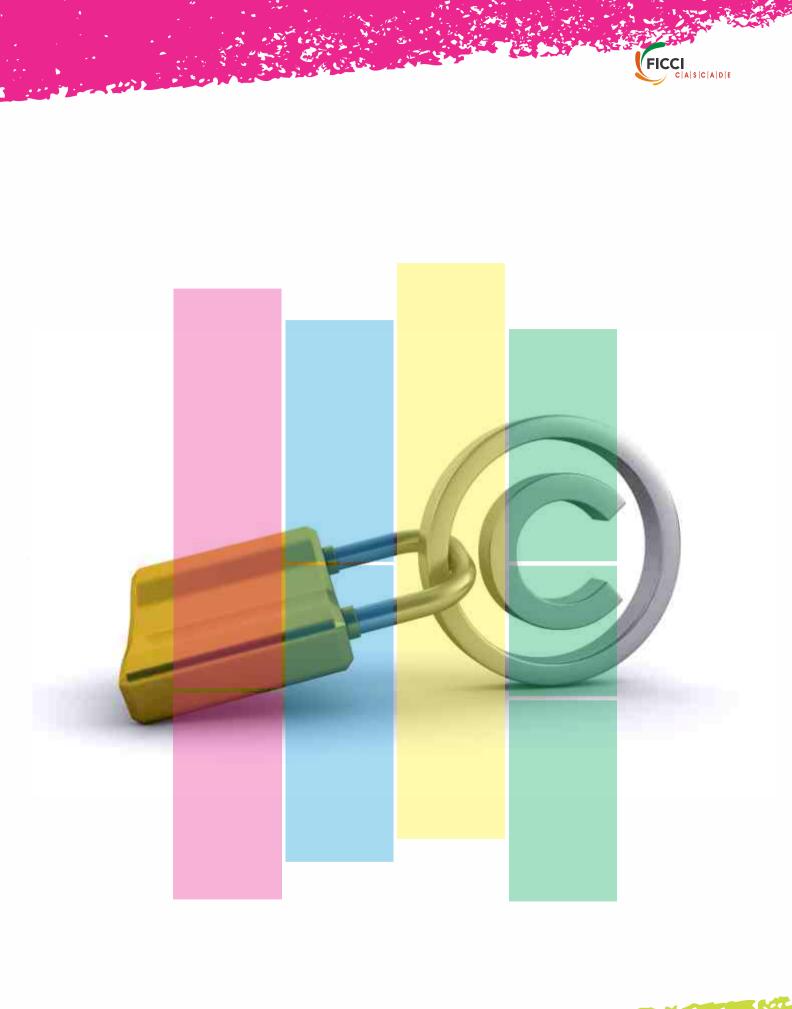
Steps listed in the guidelines for tackling counterfeiting:

- seller detail should be made available on marketplace website for all products.
- sellers must provide an undertaking to the platforms about the genuineness of products.
- trademarks owners shall be given the option to register with e-Commerce platform.
- 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 complaint in 12 hrs it will be conveyed to the trademark owner and as soon as possible the product shall be withdrawn, and the site will be blocked.
- In case of a customer making a complaint of counterfeiting post sale price return or compensation will be paid and financial disincentives for sellers if found to be selling counterfeit shall be prescribed.

Steps listed in the guidelines for antipiracy:

- Intermediaries shall put in place measures to prevent online dissemination of pirated content and shall identify trusted entities whose complaints are resolved on priority.
- 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.
- A body of industry stakeholders to be created that shall identify rogue websites that most predominantly show pirated content upon identifying the internet providers shall remove or disable access to the website within a set time limit.









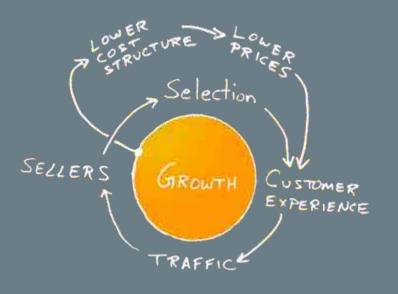
Mr. Dustin Todd Head, Global Brand Relations Amazon.com, Inc.

mazon is a customer centric company where everything starts at the customer and ends at it. Amazon is focused on building and maintaining customer trust because it is imperative to the businesses that it operates. Also, customer experience plays a very important role as the customer dissatisfaction will lead to reduce traffic, no. of sellers and selection that Amazon offers.





Amazon's flywheel



Amazon is operating globally with hundreds of millions of customers, millions of sellers and there are more than 5 billion changes to the product catalogue daily. There are 4,50,000 sellers based in India alone, that ranges from a small entrepreneur to major household brands. Innovative tools using artificial intelligence and machine learning are used to predict the potential risk arising out of these set of factors and prevent them from coming into Amazon's marketplace.

Amazon receives millions and millions of pieces of customer feedback on a weekly basis and which is used to identify risk signal that would indicate if a product purchased by a customer might have been an infringing. When sellers come on to Amazon's marketplace, following checks are done:

- Is the seller blocked in the past?
- any one of the factors that he is giving is associated with a bad actor that has been previously blocked?
- is there a mismatch in the factors that they are submitting?

The same thing is applied on listing as well. The risk signals are analysed and proactively action is taken to prevent potential listing of counterfeit products on the store.

Amazon has launched a brand registry programme in 2017. It offers to the rights owners a streamline way to search Amazon's marketplace for potentially infringing products and a streamlined way to report the infringing listings through a tool called



report a violation tool. Only one trademark is required to enrol in the brand registry service. And this tool will allow to search Amazon's catalogue within a matter of seconds to populate results that one wouldn't necessarily find by looking just by going on to Amazon.in.

Another technology is the use of image technology in order to search the infringing products. One can select the trademark or relevant registered IP and will get a much quicker processing time by reporting that within the brand registry.



At present there are more than 130,000 brands enrolled in brand registry and more than 10,000 brands in India that are using this service. Brand registry and the tools that are available to brands consist of few key powerful tools because Amazon doesn't want brands to take a reactive approach of reporting issues repeatedly.

Prescriptive rules are written using algorithms specific to a brand and specific to the IP owned by them and specific to the information about the catalogue provided to proactively look for potentially infringing listings and automatically remove those listings from Amazon's marketplace. Amazon has proactively removed 300 potential infringing listings for every single notice of infringement that it received from the brands.





Another service is the transparency service, that Amazon has developed and has now more than 4000 brands that are enrolled in the transparency service and the brands that are using transparency are no longer finding and reporting counterfeits on Amazon. It's like a 2D QR code and can be used in couple of ways. First the product should have a transparency code on it to be given by the sellers and then the code coming into Amazon's fulfilment centres is scanned. The service has also been made available within the transparency app to the customers. The brands that are enrolled in brand registry are reporting 99% fewer infringements as compared with the launch of Amazon brand registry.



We need collaborative efforts and forums like FICCI helps in staying ahead of this challenge. An environment needs to be maintained to continuously innovate, develop technologies to proactively prevent infringement within the marketplace. Partnering with brands, getting feedback, and looking at the gaps and processes, all together can build technologies to fight the menace of counterfeiting and smuggling.



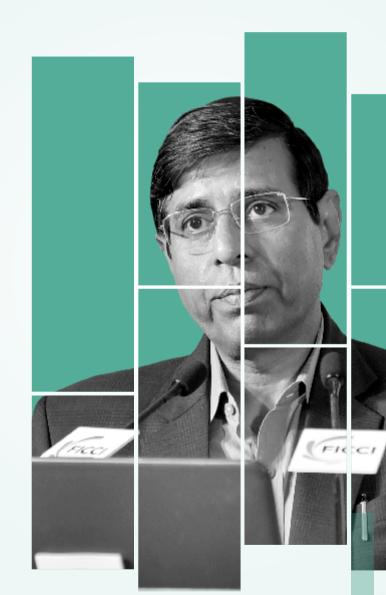
nlike the problem of physical piracy and counterfeiting, the piracy of content is easiest and the most damaging. It is easiest because the content of the original product is retransmitted and therefore there is no new creation, no infrastructure required, no money is invested in creating content and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

In physical products people may be able to distinguish between an original and a counterfeit with its quality. But in content piracy there is no such distinction as the same HD quality film that one can watch on a legitimate platform is also available on a pirating platform.

A host of measures are taken at Star India like 24*7 content monitoring and take down, taking john doe orders from courts, filling criminal cases but this is not enough. As per statistics, 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 platforms such as YouTube, Facebook, Twitter, Dailymotion, Instagram, internet websites, app stores and illegal streaming devices which are called Cody boxes.



Mr. Surender Mann

Senior Vice President – Legal Star India Pvt. Ltd





Recently it was found that there was a Wi-Fi enabled box in the market for some Rs. 1000-5000 which was using keys of a distribution platform to transmit all the television channels of all Indian broadcasters. Now, 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. There is a need of collaboration both between the stakeholders as well as regulation from the government to tackle this.

How do pirates monetise their content?

The primary reason for piracy is money. Pirates make money either through advertisements or subscription. Every pirate website attracts ads and unfortunately these advertisements are mainly from legitimate businesses and brands. Google AdSense is the biggest advertisers in the pirating websites, 60% of the ads are from Google AdSense. Social media platforms allow almost anybody to upload content and monetise it. Brands would mostly advertise through agencies without even looking at the website they are advertising on. And advertising agencies would look at the Alexa ranking and advertise on the website without seeing what the content is, whether it is pirating content, it is pornography, its anti-national, terrorism, whatever, nobody is paying attention at what they are advertising on. Today, there is a need for people to understand that it is not the loss of broadcaster alone or the content owner but a loss to the nation.

Difficulties in tackling piracy

One of the greatest difficulties 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. Then there is a lack of an infringing website list. There is no institution in India which is preparing a list of infringing websites which are infringing content or physical goods- counterfeit products. There is a need for stakeholders to come together like advertisers, brands, advertising agencies, content owner and create a list of infringing websites. And this list can be made available to the advertisers, payment gateways and can be used for sensitizing people at large.

How to use technology to deter pirates?

Every piece of content that is available on a pirating website has a legitimate source, in the tv industry broadcasters reach the last-mile subscribers through distribution platforms. Today there is technology available which makes it possible to have forensic watermarking and to identify each and every set top box of every subscriber, which can scan and identify the source.

While there is administrative site blocking, court blocking orders, round the clock monitoring and takedown but it is only scratching the surface. One website is blocked another one will come up; most websites are mirror websites they are called hydra headed websites. Therefore, the need of the hour is to chock the flow of money and for this infringing website list, collaboration and cooperation between stakeholders is important.



hy do people buy counterfeits? The perspective from the sellers is that it's a profitable business but from the point of view of the buyers the social adjustive function is higher from the value expressive function, which means that buyers prefer the value of the brand name over the utility of the product and that is driven by a no. of factors, such as value consciousness which means value of the product and the brand is way higher than the product or it is a status symbol. And until this insecurity stays within the minds of the buyers. the flow can be minimised but not eradicated completely.

In order to minimise the flow, the source of the products needs to be identified. A study based on the global seizures indicate that about 85% of the products are coming from China and Hong Kong combined, India counts for another 1.2%. The new silk road is providing these counterfeit goods a ready access from China into the rest of Asia, Middle east, Africa and Europe. Kazakhstan shares a porous border with China and have free trade agreement with Uzbekistan and Ukraine and that provides a ready supply into Europe as well.

Internet is providing any small seller sitting out of his garage the ability to supply these counterfeit products- globally and anonymously and everything is available to the customers at the



Mr. Nikhil Grover Director, Digital IP Insights Private Limited

SIPI



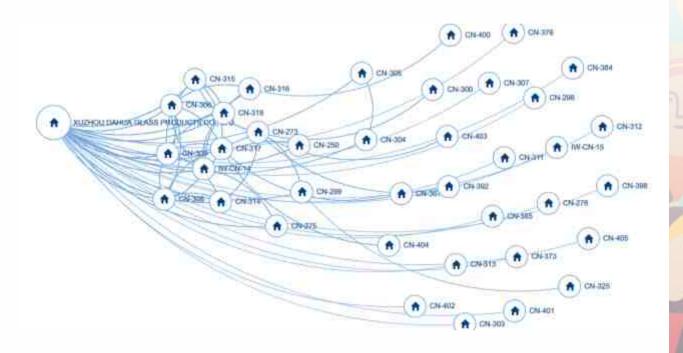


click of the button. The cross-border sales are expected to triple in next 6 years driven by e-Commerce and the growth of mobile commerce. Small parcels of less than 10 products is extremely difficult for customs to seize and control the flow.

What is brand supposed to do?

A regular clean-up of key market places and social media is important. There is a need to use data and different technological tools available to figure out the key players and nip the problem at the source. 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.

Aggregating Information to Identify Seller Clusters



There is also a need to identify sellers or product clusters- concentrated areas of counterfeiting activity where a single seller is operating on multiple websites or a no. of sellers connected together operating under different names and then a coordinated action is required to remove the entire network of illicit operations. These clusters are based on similar keywords, text in the listings, common images etc. Different sellers associated together are also offering these products across e-Commerce marketplaces and social media platforms. Identifying the product and seller clusters, making test purchases, doing online investigations and taking legal action is important to tackle the problem.

A recent UK study suggest that after street available counterfeit goods, social media is a channel that is most prominent for sale of such products. Chinese mobile apps, WeChat, Red Book, Pinduoduo, are some of the apps that are being used increasingly by consumers to offer counterfeit products.

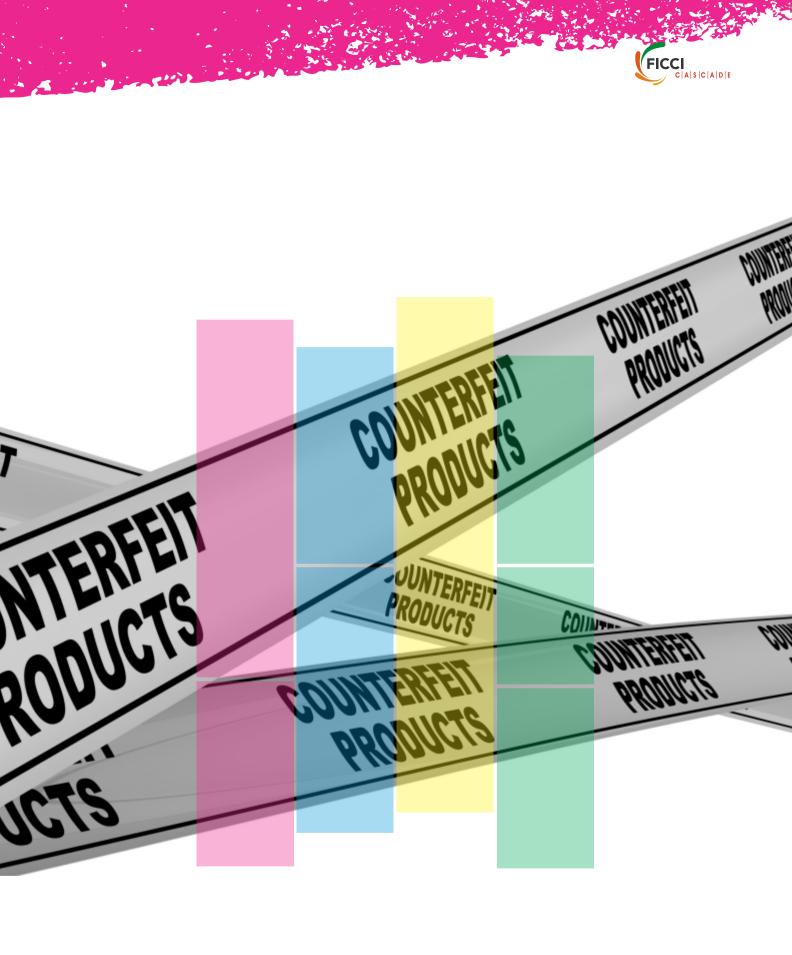




^{*} Based on globalseizures | Source: OECD Report – Trade in Counterfeit and Pirated Go ods: Mapping the Economic Impact

SIPI is creating a new crowd source model to figure out the problem, understand source of sellers and take the problem down. Counterfeiters are getting extremely sophisticated and it's important to keep abreast with them and use the technological tools to figure out what they are doing and rest the problem right at the source rather than doing things individually in different countries.

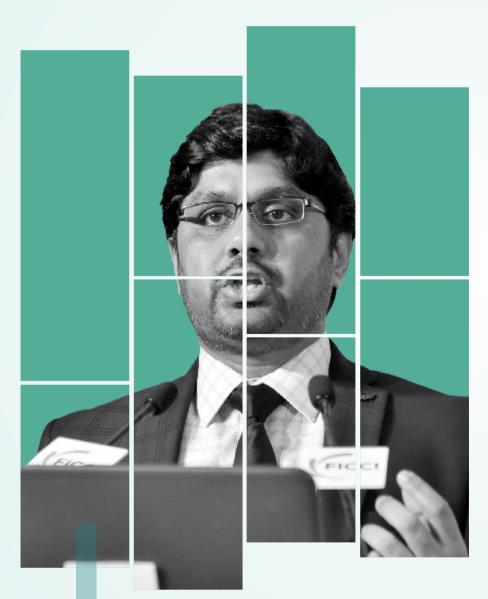






he problem of illicit trade involves various stakeholders, first is the consumer who has various options available online, where a same product is offered for sale at Rs. 100 while the other at Rs. 50. The obvious choice is Rs. 50 because the image is identical. But when the consumer uses the product, they realise that it is not giving the same efficiency and benefit as expected. Then the consumer complaints which essentially comes to the brand owners and it involves a huge brand loss.

The other important constituent are the counterfeiters who are aware about the brands who are spending tonnes of money on advertising and they can introduce the same product at a low margin and sell them on virtual market places where they remain anonymous and unidentifiable. E-Commerce market while it's a new channel



Mr. Amit Bhasin

General Manager, Legal - Customer Development and Corporate Secretarial, Hindustan Unilever Ltd.





and a growing one, essentially important from the economy point of view is at the same time opening a new channel for the counterfeiter.

Counterfeiters use original brand images; brands' advertisement budgets and they are working on sophisticated platforms. They are using latest technology which makes it very difficult for one to differentiate between an original and a counterfeit product. The problem is also at the enforcement stage because the challenge is to catch hold of the person who is behind the website and take necessary enforcement actions.

E-Commerce players and brand owners have disputes which are there currently in the courts where they are fighting against each other. The problem area is that both are passing the responsibility and the counterfeiters are enjoying. They are spending money on advertising and on litigation but counterfeiters are taking advantage and that is the real extent of the problem.

The last are the regulators and the court and its machinery where laws are being developed, the case laws are coming on the role and responsibility of the e-Comm player, intermediary but it is still developing. A big step has been taken by government of India by bringing the e-Commerce policy which has indicated clear guidelines on the expectations from band owners and e-Commerce players.

People should be aligned on the ideology that consumer comes first, and reputation is the biggest thing and start looking beyond the profits and losses. Illicit trade is a parallel economy and its magnitude is growing with every passing day. There are huge investments done by illicit players as it has high returns with low risk, therefore the extent of problem is very different and it needs collaborative effort.

E-Commerce players has a lot of information available, they must collate the information like the GSTIN etc. and build a database of all the counterfeiters to block them from online sites. There is a need to create deterrence for counterfeiters. Smooth information exchange between all the stakeholders is important to control the menace and will facilitate e-Commerce and industry to flourish.





LESSONS TO LEARN:

Speak your mind to make a difference: Case Studies from Auto Sector





Mr. Yash Pal Sachar

General Manager - Parts, Honda Motor India

genuine sticker which gets developed say at 25 p for an OEM, in a nearby place like Karol Bagh or Kashmere gate that same 25 p sticker is available at 8 Rs per piece so even the sticker of a genuine part is available. Lot of counterfeiters are buying those kinds of stickers. In last 3 Honda is making sure that parts are available. Honda cars and Honda two wheelers put together have 70,000 types of parts. So, the organization is striving to make sure that those get delivered within 24 hrs of putting an order. OEMs now are turning to have regional distribution centres to deliver almost twice a day for some OEMs, so that the customers get the required parts. As an industry in a year we conduct 2200 raids, of course people come out on bail, and punitive actions are a concern. Honda is not only collaborating as OEM, but with also





component suppliers, collaborating with automotive workshops, independent automotive workshops so that the genuine parts are delivered.

Firstly, genuine parts should be available. As of now in marketplace there is no standard for quality of parts. So, anybody can sell as per any specifications. Soon with the help of ACMA and government there is going to be quality control for after sale parts. To start with some safety critical parts and later on it will be extended for other parts. So, this is one such initiative with the government so that there can be better control for safety of customers on road. Yes, consumer awareness is important for Honda. A common app is being developed, which will be able to distinguish a genuine part from a fake one. So, all 30 brands can be put on one such app.

One request, with government a recycle policy is also in the offing. As of now the policy has nothing about quality of parts and parts which will get dismantled from vehicles. As of now it has been estimated that there are 65 lakhs vehicles which are due for recycling. If they go for dismantling, we will have huge number of parts which will have no quality and if they come to market it will be a further challenge in terms of causing accidents. There are two things , one we can learn from other countries like Malaysia which has already faced a situation like this wherein, the price of parts which got dismantled from your vehicles the price fell down as low as 10 % and those created a lot of havoc, accident rates went up and later on there was policy introduced for quality of those kind of scrap vehicle. This policy will be put on draft in 3-7 days. While those components will come out from scrapped vehicles, some quality control for those parts is also vital.



s of today, almost 3.13 crore vehicles are on road which includes all the manufacturer put together- the passenger vehicles. The aftermarket automotive industry is almost growing at 10% CAGR from the last 5-6 years almost. As per the recent study the total aftermarket automotive component is expected to be around 75000 cr by 2019-20.



Mr. P. Thippeswamy Deputy General Manager, Maruti Suzuki India





The segments where fast moving products are there, the suspension breaking items, drive transmission and consumables- this contributes almost 50% of the business, this is where the entire counterfeit is present. Looking at industry statistics which is almost 22,000 crores is the auto parts counterfeit industry, which is growing much faster than the car and bike sales and has almost doubled in the last 5 years. This is a big concern to the OEM equipment manufacturers as counterfeit parts are not only causing threat to human lives but also is national security issue. Out of 75000 crore automotive component, aftermarket 30 to 40% of the parts are from the counterfeit Industry. In a recent newspaper article, the transport minister Shri Nitin Gadkari talked about 1.5 lakh deaths happening every year in the road accidents. Around 5 lakh people are injured every year. Almost 17 deaths are happening every hour in the road accidents and 25% is due to the counterfeit parts. So, that means if the counterfeit industry is eradicated, 1 life can be saved every hour. With respect to smuggled imports, 55% are coming from China followed by Taiwan. So, almost 65% the fake good supply is coming from either China or Taiwan.

The counterfeit industry is on an upsurge because of lack of consumer awareness, ease of manufacturing and packaging and importing of counterfeit products. There are also lucrative margins for the counterfeit when they sell. More so, whenever there is a scarcity and supply constraint faced by equipment manufacturers, it proves to be good opportunity for counterfeit players to supply these parts.

As an automobile industry there is a big damage to the brand and whenever the counterfeit part is being used. The favourite targets of the counterfeiters are basically high value parts which are easier to copy which helps them in earning high value margins. There are three categories of parts: one is maintenance - parts like oil filter, breaks. The second category is repair items – parts like bumper, covers, headlamps etc. and the third category is suspension and steering items. Overall parts like power plug or oil filters which can contribute to the engine failure and pose a risk to the consumer. Counterfeit brake pads are made of sawdust and compressed grass or asbestos which negatively affect the stopping ability of the vehicle. Moreover, in the event an accident happens if fake automotive body parts are used which are not aligned with crumple zones, the entire effect is passed on to the consumer, leading to death. Cars also catch fire when fitted with local wiring. Consumers are also using local air bags without being aware about it.

It is very important that we should involve all the consumers, all the stakeholdersvendors part supplier, the supply chain distributers, retailers and we need to have a product differentiation, and these should be promoted in the interest of the consumer. Manufacturers should be brought together at various garage meets, there is a good education system in place in terms of packaging identification or the part identification. There are also some good laws, fines are ranging from 50,000 to 2 lakh Rs. Industry association along with vehicle manufacturers, component makers are regularly conducting raids, also awareness building programmes.



The Maruti Suzuki genuine parts – core value is to provide right part at the right price at the right time at the right place to the consumer to have trouble-free driving experience. At all the dealers, a big board advertises 'No seal, No deal'. 'No genuine part, no warranty repair', this is one of the best education programs which Maruti Suzuki has been doing where almost 15 lakh customers are visiting its dealership on a monthly basis.

In the aftermarket space, Maruti Suzuki has almost around 550 parts retail outlets. There is a separate dedicative section which talks about 'asli nakli' and all these 550 retail outlets have television screens, with a video run every day talking about 'asli nakli'. So, at both the car dealership end and the other side of the aftermarket the company is educating the customer to the best possible manner to ensure awareness on counterfeit parts. New MRP labels are also being introduced, with a QR code and many other security features. Unfortunately, technology is replicated within 10 days in the market. And the customer is not able to differentiate. Some of the security features are QR code, where customers can download mobile app, scan and assure where part is genuine or not. Also, a lot of mega garage meets are done to educate about customer- user parts, posters, danglers which are being put in the Maruti Suzuki circle of car dealerships and parts retail outlets. These are being displayed at a third-party retail outlet as well to educate about the genuine parts.

Support is required from government to strengthen the legal framework and increasing penalties, strengthening the rules and regulations and protecting consumers from the counterfeit goods.

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Valedictory





t is proactive role of judiciary within the existing legal framework to combat counterfeiting, smuggling, need for legislative changes and enactments.

India is aspiring for a 5 trilliondollar economy by 2022 while the world economy at that time would be having about US \$2.2 trillion- 3 trillion which are earned from the illegitimate trade of pirated, counterfeited, smuggled goods. As per 2009, OECD report the value of illicit trade is US\$ 509 billion.

Smuggling in textile, readymade garments, cigarettes, machinery and parts, consumer electronics causes a loss of about 16.36 lakh jobs per year, which can act as an incentive for the central government for policy determination. Counterfeiting

Hon'ble Mr. Justice Manmohan Sarin

Former Lokayukta, NCT of Delhi, Chief Justice, High Court of Jammu and Kashmir & Judge, High Court of Delhi and Think Tank Member, FICCI CASCADE





and smuggling has pernicious effect on the economy such as loss of domestic jobs, curtailing growth of industries, etc. Spurious drugs can play havoc with the health care system, especially in developing countries where cost effective generic drugs are required.

Counterfeiting is to imitate a product, it is fake and unauthorised replica of the real product with an intent to take advantage of the superior value name attached to the real product. Section 28 of the penal code defines it as -a person is said to counterfeit who causes one thing to resemble another thing intending by means of that resemblance to practice deception. The essential element there is practicing of deception which finds its resonance in Section 2(h) of the Trademark Act. This definition is believed to be requiring some revision to bring in consonance in parity with the TRIPS definition.

The role of judiciary, despite backlog of arrears, sporadic delays and some aberrations judiciary continues to enjoy public confidence by and large not withstanding some criticism for judicial overreach in matters of faith and religion. 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. It can be done by bringing a judge made law to fill in the legislative vacuum. And this is justified specially when it is done to attain the objective of curbing socio-economic crimes affecting and plaguing the economy. How is it achieved? There is a dire need of judicial sensitivity in recognising counterfeiting, smuggling and violation of IP rights as acts against the economy. Having a cascading adverse effect on the growth of domestic industry.

Apart from the areas of counterfeiting, smuggling, violation of IP rights which have largescale socio-economic fallouts there are legislations such as Consumer Protection Act, Lokayukta Act. The former is intended for protection of consumer interest and to prevent exploitation of consumers by manufacturers. In the current scenario when small or middle-class industries find it difficult to survive there are multinational players in consumer goods. The need for protection of consumers becomes far more essential against the might of large undertakings. Similarly, the primary object of Lokayukta Act is to eradicate corruption and to act as crusader against it as well as to correct maladministration.

In the field of copyright and trade mark offences, judiciary has already shown the path by granting injunction orders, passing John Doe orders i.e. search orders, appointing Local Commissioners and Anton Piller orders which covers the whole market range where there can be repeated searches within its sweep.

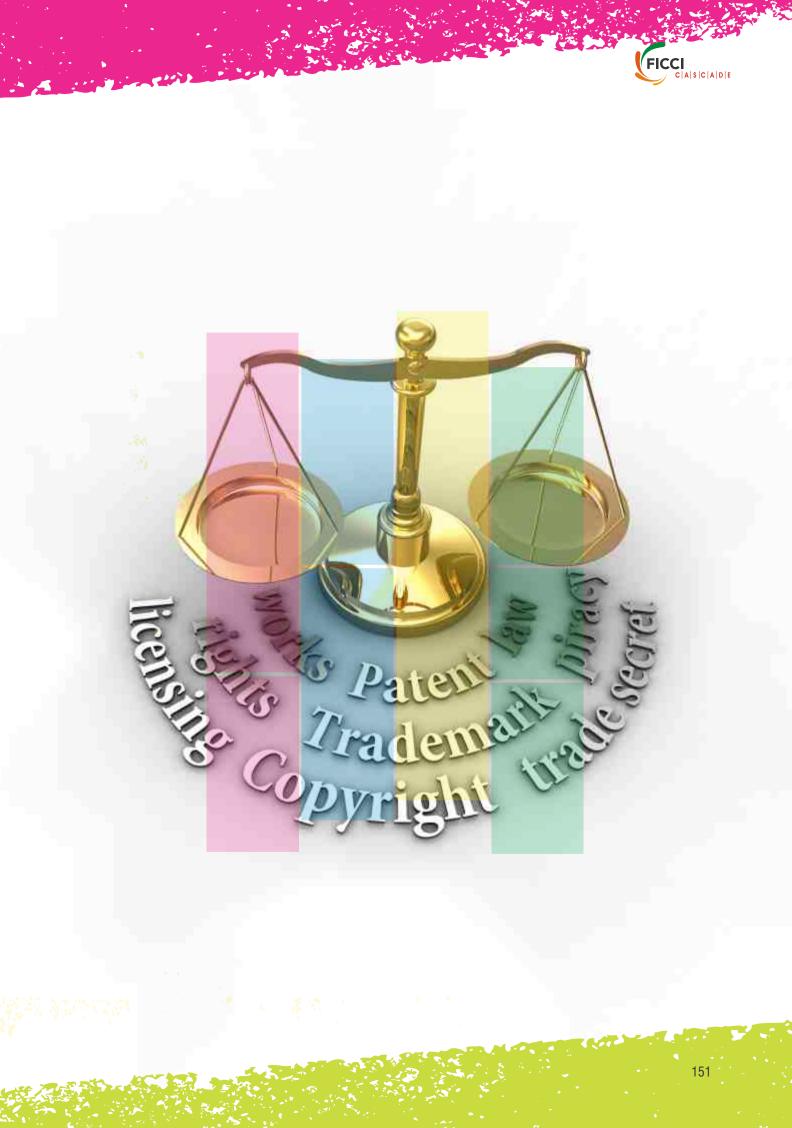
There is also a trend which is being developed of imposing maximum fine and imprisonment in case of penal offences, as provided within the statute, so that it acts



as a deterrent. Imposition of maximum imprisonment, fine and costs, the rational being to serve the above as a deterrent for those indulging in infringing activities. The jurisprudence of punitive damages is already existing in Indian law since the cases of time incorporation there have been cases where a fine of Rs. 87 lakhs were imposed. In the case of Glenmark pharmaceuticals cost of Rs. 1.5 cr has been awarded. The idea is to send a message that infringement would not pay. Another aspect is training and prioritisation of these subjects to quasi judiciary and in the judicial academies in order to put these matters on fast track. The judicial officers must realise that such cases have serious socio-economic impact.

The temptation can only be addressed by constantly making our younger generation aware of the pernicious effects on the economy so that the right values are imbibed. CASCADE has launched several programmes for sensitising school children by organising various competitions. There has to be a change of mind set and a consensus built up in shunning the use of counterfeit products. Unless this comes from within, the problem shall remain and once we have reached the stage of building up of public opinion, then comes the second stage of adopting of the doctrine which is called naming and shaming.







Hon'ble Shri Uday Umesh Lalit

Judge, Supreme Court of India

Keynote address on Proactive Role of Judiciary within Existing Legal Framework to combat Counterfeiting and Smuggling- The need for Legislative changes enactments

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nterim orders can be passed which will expedite the process and will qualitatively assist in determining the rights and liabilities of parties. According to IPC, there are certain activities which can be termed as offences where a person can be punished for indulging in counterfeiting. This has been the ethos for more than 150 years but there is less convictions on these issues, and hence the sections which define the offences are more or less ornamental on the statute books. There haven't been any prosecutions leave aside the convictions in this field.

As per legal glossaries and reports the last judgement was by Justice Shelat in 1972, and since then there hasn't been any order of detention for issues that is to ensure maintenance of essential supplies to the society. Judgement says that somebody who has been supplying substandard material like wheat on a large scale was detained. And one of the submissions which was advanced was that he cannot be detained for a matter like this at best he may be punished in a regular crime, or in a regular prosecution but that submission was rejected.

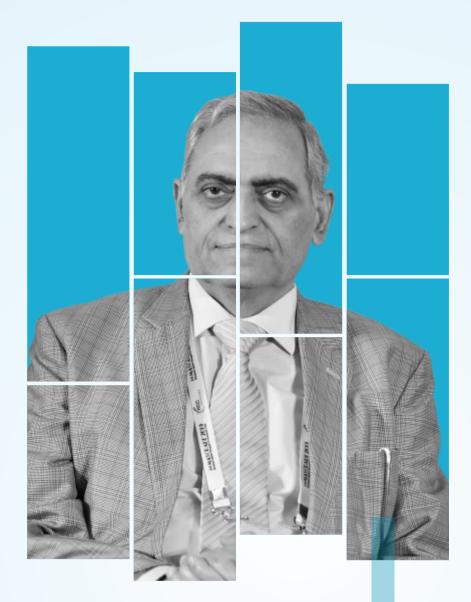
The enormity of the situation that the judiciary has recognised that for the societal goods and benefit somebody's personal liberty can also be put to prejudice. All the interim orders which the judges and judiciary pass from time to time are essentially remedial or corrective orders so that the guilty are brought to book, but the preventive measures are also essential. Each one of us has to be vigilant and active. Branded goods especially luxury items such as watches, purses, shoes, apparel etc, where consumers knowingly purchase fake items. Consumers are aware that the utility of the particular product may not be long-lasting as the original one, but they want to masquerade the society that they are consuming certain quality material. Consumers think that counterfeiting is good till it doesn't have any adverse impact or effect on the health or wellbeing. Citizens would not like to buy a counterfeit medicine or food items, but they are ok with luxury products. And that's where the dichotomy lies in ourselves. The moment we permit in one direction it's like that cancerous cells which try eating into the body of the society. Therefore, we must have an awareness, each one of us should resolve not even for a second not even for one item to indulge in such practices.

Money at times can be a great incentive for evolution, progress, development, etc which we should not kill. And the one way we can do this is build a resolution that perhaps we will do away with every counterfeiting attempt.

The finest principle in environmental law is that the polluter must pay applying the same logic and the same principle that a counterfeiter must pay. Making him pay to such an extent that it will be an exemplary lesson for all the people around and it will send a message down the line through the society that these attempts are to be completely eschewed.

Second principle is that the executive must always anticipate a problem and work in that direction to eliminate it before it assumes gigantic proportions. We are acting in a knee jerk reaction that there is a problem and we need to find a solution, but we need a constant vigilant eye, a body of experts which can perceive a problem and take necessary measures. We must have an agency, a mechanics, an apparatus which can look into these issues/ matters within the sphere or realm of judicial activism. The judicial process, executive vigilance and legislative apparatus must work together to curb this problem.





Mr. P. K. Malhotra

Former Secretary, Ministry of Law and Justice Government of India and Think Tank Member FICCI CASCADE

ll effects of piracy, counterfeiting and smuggling is on the social and economic fabric of a county and on the world economy as a whole.

Globalisation and technological advancement have also led to increase in economic crimes, which have acquired a higher dimension in the society as compared to conventional crimes. Therefore, with the changing economic scenario the international community has also got sensitized to deal with issues like violation of





intellectual property rights by providing a stronger legal regime. The signing of TRIPS agreement by most of the countries and then amending their domestic laws in conformity with the international obligation under the TRIPS agreement, is a step in the right direction to check the menace of smuggling, counterfeiting and piracy. The provisions of the Indian IPRs are of international standards and are TRIPS compliant. The Copyright Act, the Patents Act, and the Trademark Act were amended to bring them in conformity with the obligations undertaken by India under the TRIPS agreement.

With the legislative framework being in place, it is the responsibility of law enforcement agencies as well as courts to ensure that the law are implemented in the spirit in which they were enacted, to achieve the desired objective. It needs joint effort of judiciary, executive and industry to put the things in the right perspective. Law is only a tool; its effectiveness depends on the effectiveness of the authorities who are responsible for its enforcements.

The role of enforcement agencies is very crucial in spite of regular training and advocacy the desired objective is not met, investigating the cases expeditiously and ensuring prosecution in a time bound manner is an essential element for effective enforcement of any law. There is lack of sensitivity to the violation of IP laws and low priority is given to the crimes committed under these legislations. The people responsible for implementing these laws need to be trained at regular intervals for effective implementation and to avoid long delays in investigation. Although we have a vibrant judiciary which has always played a proactive role in enforcing the laws and protecting rights of the citizen, huge pendency of cases in courts, lack of proper infrastructure and shortage of judges has always been a matter of concern.

In spite of judicial reforms which have taken place in the recent past India is still nowhere near the developed world in handling litigation expeditiously or in a time bound manner, the judge-population ratio in India is about 17 or 18 judges per million whereas in the developed nations the ratio is 70 to 100 per million.

A tribunal can be constituted for specialised areas so that there is both a judicial expert and a technical expert, and instead of following the strict principle of the Evidence Act or the CPC cases can be decided based on following the principles of natural justice. Unfortunately, there have been long delays in filling up the vacancies of the members in tribunals, they are not provided with adequate infrastructure and the kind of expertise which are expected from these members have not been developed and therefore the tribunalisation of justice has not yet achieved the objective for which these tribunals were constituted.

Courts do not interfere if the tribunal or the adjudicating authority has taken a view. There may be aberration, judicial overreach but the judiciary does not intervene in the matter until judicial intervention is called. Also, courts are now enforcing



obligation under the treaties and convention if it is not in conflict with the domestic laws. So far as implementation of IPRs is concerned, if there is a case regarding criminal liability instead of cases going to the ordinary court it can go to special courts as in the case of CBI. Similarly, there are special courts for enforcements of criminal liabilities. Enforcement of civil liability can be done through alternate dispute resolution mechanism and it may prove very effective where the strong penalties can be imposed.

Industry has to play an active role in educating the masses and the consumer need to be told about the ill effect of illicit goods. There is a proactive judiciary but with the cooperation of industry and enforcement agencies is very important for eradicating this menace.



RECOMMENDATIONS TO COMBAT ILLICIT TRADE

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.



CDADE 2019

ining Counterleiting, Smuggling and Piracy: A Winning Strates



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

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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

- 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.

A. Infrastructure, Resource and Capacity Building

Home Affairs

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

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- 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

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- 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. 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

Recommendation

dition

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 ecommerce 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 anticounterfeiting information system in place which would give useful feedback, and help in further investigations, on a tactical and strategic level.





ARTICLE





Saturday, 12 October 2019 | The Pioneer

Illegal trade a Speed breaker



Chairman, Central Board of Indirect Taxes and Customs and Advisor, FICCI-CASCADE

PC Jha

India's economy lost Rs 1,17,253 crore in FY 2018 due to smuggling. All stakeholders must work on an effective deterrence to avoid leakage

The Indian economy lost Rs 1,17,253 crore in 2018 due to smuggling in five key sectors and about 16.36 lakh worth of livelihood opportunity. These figures, cited by a FICCI (Federation of Indian Chambers of Commerce and Industry) study, are alarming given that the global economy is suffering and India's fiscal health is also not robust. The Indian economy gained momentum in 1991 with the three-pronged steps of liberalisation, privatisation and globalisation taken by the then Narasimha Rao Government. Though passing through ups and downs, since then, in general, the economy has been doing much better than before.

However, at this moment, the scenario is not encouraging, not entirely due to domestic factors. Many manufacturing sectors like automobiles, textiles, Micro, Small and Medium Enterprises (MSMEs) are not doing well, which besides other consequences for the country have resulted in creation of fewer jobs.

Besides all these factors, another element which has had a huge negative effect on the economy is the fast-growing high volume of illicit trade. Smuggling and counterfeiting are normally seen only from the prism of the loss of revenue to the exchequer. However, it has many more facets that impact our economy, society, law and order and employment generation.





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India's economy lost ₹1,17,253 crore in FY 2018 due to smuggling. All stakeholders must work on an effective deterrence to avoid leakage



Over the years, the

rate of growth of illicit trade has outpaced the growth of the economy. It has credibly been estimated that by 2022. the market size of illegal business at the global level will touch \$3 trillion. No country is immune to this problem and there is no product, the counterfeit of which is not available in the

According to a report by the United States Trade

market.

Representative (USTR), pharmaceuticals and Fast Moving Consumer Goods (FMCGs) are facing a big problem due to the illicit market as 20 per cent of pharmaceuticals sold are either counterfeit or sub-standard and in the case of FMCG products, seven to nine per cent of the market share has been taken away by smuggled or counterfeit goods, which result in an annual loss of Rs 21,000-Rs 31,000 crore to the industry.

One alarming aspect of the illegal business is that money generated through this is the main source of financing terrorism across the globe. Different terrorist organisations indulge in smuggling and counterfeiting of specified products. While the Islamic State deals in cigarettes, petroleum, oil and lubricants and mobile phones, the Hezbollah trades in drugs and medicines, the Al Qaeda in clothing and

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bags, the Irish Republican Army in pirated discs and clothing, the Hamas in drugs and food products and the Boko Haram in cigarettes. Illicit trade in tobacco products is considered a low-risk, high-reward economic activity and this evil business is termed as the crime of the 21st Century by the US security service the Federal Bureau of Investigation. The online sale of counterfeit goods is also burning a major hole in the economy, of the world and India, as nearly one in three Indians reported receiving counterfeit products online. An Organisation for Economic Co-operation and Development (OECD) report of March 2019 shows that worldwide the percentage of counterfeit footwear is about 22 per cent, clothing 16 per cent, leather goods 13 per cent, electric equipment 12 per cent and so on. It is important to note that since brands stand for social status, trust, quality, originality and so on, any activity that compromises with this has to be curbed effectively. In order to find a holistic and permanent solution to the problem in India, a unified voice is needed so that the Government makes policies and legislations to serve the best interests of consumers and the country. Vigorous consumer awareness campaigns need to be undertaken on a large scale apart from multimedia campaigns such as the Government's Jago Grahak Jago initiative. This will enable consumers to differentiate between genuine and fake products. The Indian industry must also take steps to safeguard the integrity of supply chains of their products, check notorious markets regularly and use technology to track and trace movement of their original products in transit. The industry has to give a thrust to risk assessment and make more investments in intelligence services. However, to check this menace, the whole-hearted support of the Government is necessary and it has to establish a nodal vigilance agency for regular monitoring of illegal activities.

A constant dialogue with international stakeholders will also help in disseminating global best practices and legal provisions dealing with such crimes need to be reinforced as extant bail provisions are not severe and convictions are low. In order to effectively curb illegal trade, bail bonds should be high, there should be stringent monetary penalty for offences and imprisonment should be more rigorous and for a longer term.

It has been observed globally that certainty about infliction of penalty is more effective than the severity of the penal action. Hence, investigation and prosecution must end in a specified period. For this, we need separate commercial courts manned by specially-trained judges. Dynamic injunctions coupled with punitive damages and making the provision of arbitration applicable for such offences are also vital. There is a need for a comprehensive national legislation to deal effectively with organised crime.

According to a Thought Arbitrage Research Institute (TARI) study commissioned by FICCI-CASCADE (Committee Against Smuggling and Counterfeiting Activities Destroying the Economy), titled Invisible Enemy: Impact of Smuggling on Indian Economy and Employment, revenue and livelihood opportunities are lost due to smuggling in five specified industries, namely textiles, tobacco products, readymade garments, machinery and parts and consumer durables like electronics. The report highlights the key challenges posed by smuggling and suggests possible solutions to make compliance and related processes more robust with the overarching objective of arresting the spread of smuggling.





The study also took into account the impact on direct employment, backward linkages and multiplier effects of these industries as per universally accepted norms. The report stated that the total direct livelihood opportunity lost in these five industries was about 5.01 lakh in FY18. Out of this, 3.55 lakh was in readymade garments and tobacco products, which are labour-intensive industries.

Estimates of cigarette smuggling based on consumption approach showed that the quantum of smuggling of cigarettes was Rs 8,750 crore in FY18, resulting in 14 to 20 per cent of output loss to domestic tobacco manufacturers. Estimated smuggling in the readymade garments industry rose to Rs 5,509 crore in FY18. The study recommended strengthening of domestic manufacturing and reducing the demand-supply gap by making more goods available through legal channels. It also batted for urgent review of Government policies such as emphasis on enforcement action and priority on coordination between different Government agencies. It sought leveraging of technology for trade facilitation and monitoring; capacity building of enforcement agencies; strengthening risk management capabilities of customs department; better coordination among enforcement agencies engaged in anti-smuggling and greater international coordination and cooperation.

Keeping this in mind, CASCADE has been pursuing a pan-India campaign to raise awareness among consumers, policy-makers and enforcement agencies, like the police, customs and the judiciary. Each year it holds its flagship international event MASCRADE (Movement Against Smuggled and Counterfeit Trade), which is attended by delegates from India and abroad. Since, the Government wants the Indian economy to reach the \$5 trillion mark by 2024 and illicit trade has a serious decelerating effect on growth, it must be curbed substantially. This will happen only if concerted effort is made by all stakeholders to ensure that an effective and workable deterrence is created without any loss of time. In absence of such an action, it would be difficult to arrest the growth of illicit trade in India and the world.



Learning from 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 world:

he 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 MASCRADE, 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 - MASCRADE 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

earn from the world

Countering illicit trade not only requires cooperation between global institutions but also the designing of effective strategies and improving regulatory frameworks between countries





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 MASCRADE, 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 cooperation 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 MASCRADE 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 illeffects 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.



E-Commerce: The threat of Counterfects and Diacy



Mr. Narendra Sabharwal

Former Deputy Director General, WIPO World Intellectual Property Organization, Think Tank Member, FICCI CASCADE and Chairman FICCI IP Committee

-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 MASCRADE (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 ongoing 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 band 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 that the seller detail should be made

E-commerce: The threat of counterfeits and piracy

They distort the marketplace, lead to revenue loss, and undermine consumer safety. A robust policy is needed



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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.

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 antipiracy, 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.







Consumer awareness and adequate enforcement needed to deter counterfeiting and smuggling in India



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Mr. Hem Kumar Pande

Former Secretary, Ministry of Consumer Affairs, Food and Public Distribution, Govt. of India and Think Tank Member, FICCI CASCADE

t is important that consumers today understand the multi-faceted complexities of counterfeit and smuggled markets. It's economic impact on businesses, the magnitude and scale of operations, and the consequent adverse impact on consumer health and safety. Manufacturing, altering or distributing a product that is of lesser value than the genuine product with the intention of misleading the buyer about the genuineness of product is unlawful. Fake medicines, food, toys, auto parts and health products can be dangerous and can potentially harm or even kill unsuspecting consumers.

The Indian Consumer Protection Act, 2019 provides for six rights of a Consumer. The new Act has a slew of measures and tightens the existing rules to further safeguard consumer rights. The government has set up a three tier institution (NCDRC, SCDRC and DCDRC) to address an important right of a consumer, that is, Dispute Redressal between a buyer and a seller. Out of the remaining five rights, two (educating a consumer about a particular product or service and hearing consumer complaints promptly) come within the exclusive domain of the brands and the industry. Trust that a brand builds with its consumers is consumer empowerment through education and quick learning

(accessible brand promoter to hear consumer complaints and provide for speedy redressal). Remaining three rights of a consumer, namely, safety; information and choice of a product or service could be a combined effort of the Governments (including Voluntary Consumer Associations) and brands (Industry Associations).

> While the Consumer Protection Act is a stepping-stone towards empowering the consumers; the consumers must also act responsibly and cautiously while making any purchase to avoid being duped by illegal sellers. India needs to focus on two things, namely, consumer awareness and



aggressive enforcement. FICCI CASCADE (Committee Against Smuggling and Counterfeiting Activities Destroying the Economy) has been at the forefront of generating awareness amongst consumers and sensitizing enforcement agencies on the ill impacts of such practices. Consumer awareness in India is still in its infancy. Government of India has a multimedia campaign "Jago Grahak Jago" to empower consumers about their rights and duties. What is required is an impetus to this campaign with reference to fake. smuggled and spurious products. However, brands also need to supplement the efforts of the Government (both national and subnational) on consumer awareness. as it is not possible for the Governments alone to carry out this campaign exclusively for industry.

The first step to solving a problem is acknowledging that there is a problem, and this shows that we are on the right path. Although there are enough laws that deal with counterfeits and how to tackle them. improvement in terms of implementation is required, as these laws need to evolve with an everinvolving environment. Government of India have done good work on its various initiatives including the national IPR policy in 2016; IPR enforcement rules at the border or the establishment of a Cell for IPR Promotion and Management (CIPAM) for spreading awareness and upgrading the understanding environment amongst enforcement authorities.

Having said that, industry and brand owners often face challenge on enforcement issues with cases related to counterfeiting and smuggling. Currently, this matter lacks the desired attention from policy makers and lack of coordination amongst the various departments in the government. A nodal agency, perhaps, could be the answer, where there is seamless flow of information and where enforcement agencies can come together (regulatory, the customs, the law & enforcement) to talk to each other for speedy enforcement so that the issue at hand can be handled efficiently and speedily.

Although CIPAM and industry bodies have been conducting awareness sessions amongst enforcement officers, brand owners indicate that they do not get enough and prompt support from the police in certain cities as solving such crimes fall much below in the priority list of the police. The number of police officers to handle such cases is invariably inadequate and they are tied up in public law & order cases, safety and security of citizens. What is needed is feeding into the police that such crimes are also getting into larger issues of terrorism, trafficking and other illegal activities. In this context it is a fit case to raise a tech savvy Central IP Security Force (CIPSF), to be funded by a corpus contributed by leading brand owners and administered by the Central Government. Also, a provision to reward the police officers for dealing with crimes relating to counterfeiting could be instituted, which may act as an incentive for the authorities to take this up more seriously.

It has been proven statistically and through studies such as the Interpol that counterfeiters and smugglers 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 proves that the punishment is not deterrent enough. It would be pertinent to bring in rigorous imprisonment, stringent monetary penalties, expeditious investigating of cases and ensuring prosecution in a time bound manner to prevent the resultant damage to brand owners and consumers.

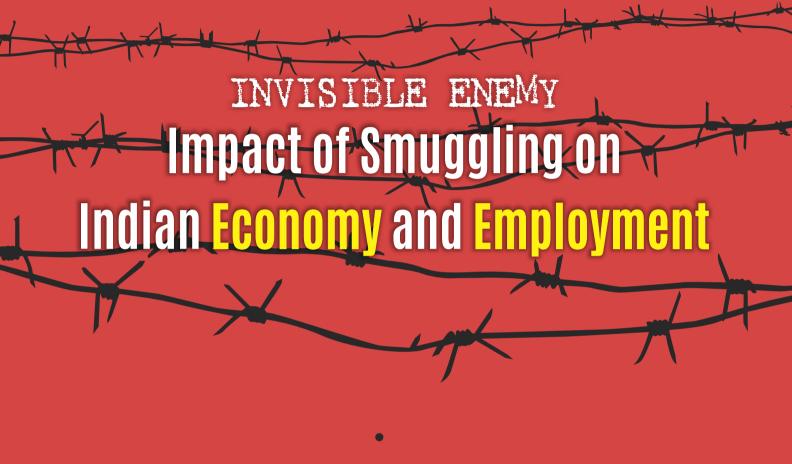
While, laws will evolve to deter this menace, continuous investment on brand protection strategies and anticounterfeiting activity is required and successful brands, in fact, do that. The problem will not go away, because advanced technology is widely available which helps in copying and making replicas. For brands, market intelligence is also a key area to focus on. It is about knowing the market, the supply chain, understanding where the notorious markets are, profile the likely suspects and develop a strategy of intelligence gathering and enable required action. Hence, in order to protect a brand, brand owners have to make investment; educate and create awareness across the supply chain; use tested service providers; and work in close partnership with the Government, industry associations and other brand owners.

In an age of circular economy (resource efficiency) and artificial intelligence, it is imperative that brand security strategies in the field are robust and dynamic. Challenges in enforcement will always remain a work in progress. However, consumer awareness and empowerment will be the key. A trusted consumer could be the best bet in securing a brand or an industry. Counterfeits and illegal products cannot exist if consumers reject them.



Publication



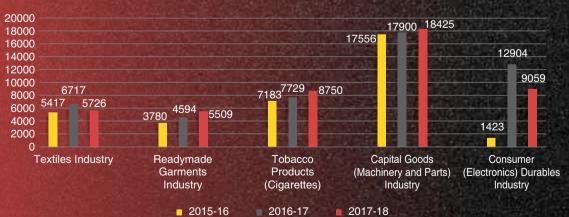


FICCI CASCADE study commissioned to Thought Arbitrage Research Institute (TARI)-'Invisible Enemy: Impact of Smuggling on Indian Economy and Employment' was released on 26th September 2019 during CASCADE's flagship programme MASCRADE2019. The study is a pioneering effort in India, which quantitatively estimates both revenue and livelihood opportunity lost due to smuggling in five specific industries. These are: Textiles, Tobacco Products (Cigarettes), Readymade Garments, Capital Goods (Machinery and Parts) and Consumer (Electronics) Durables. The report also highlights the key challenges posed by smuggling and suggests possible solutions to make compliance and related processes more robust with the overarching objective of arresting the spread of smuggling.

Indian economy loses Rs 1,17,253 crore due to smuggling in the five key sectors

Summary of Key Findings

Based on our research approach and methodology, we have estimated smuggling (equal to output loss to domestic manufacturing industry) in five key industries:



Smuggling in Key Industries (Rs. Crore)





Summary of Key Findings						
Smuggling and Losses to Country	Year	Textiles Industry	Readymade Garments Industry	Tobacco Products (Cigarettes)	Capital Goods (Machinery & Parts) Industry	Consumer (Electronics) Durables Industry
Direct Livelihood Opportunity Lost: Industry (Lakh)	2015-16	0.79	1.68	0.89	0.71	0.016
	2016-17	0.93	2.06	0.95	0.69	0.16
	2017-18	0.7	2.49	1.06	0.68	0.08
Total Output Loss: Economy (Crore)	2015-16	12974	9960	13248	50035	3370
	2016-17	16087	12105	14256	51015	35293
	2017-18	12636	14516	16138	52511	21452
Total Livelihood Opportunity Lost: Economy (Lakh)	2015-16	2.51	2.32	2.8	6.39	0.25
	2016-17	2.96	2.85	2.98	6.22	2.31
	2017-18	2.21	3.44	3.34	6.12	1.25

- Due to smuggling in the key five industries, the total livelihood opportunity lost in the economy is about 16.36 lakh in 2017-18. This is because of backward linkage and multiplier effects of these industries. However, the livelihood opportunity lost are not absolute and are overlapping with one sector or another because of the linkage of one industry/sector with the other sectors of the economy.
- Total direct livelihood opportunity lost in these five industries is about 5.01 lakh in 2017-18. 3.55 lakh livelihood opportunity lost is in readymade garments and tobacco products, being largely labour-intensive industries.

The possible way forward for the country to tackle the problem of smuggling and the recommendations for consideration are:





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'Smuggling in 5 sectors cost India 16 lakh jobs in FY18'

The Statesman

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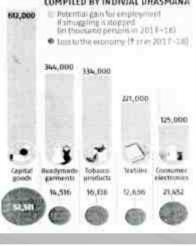
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Business Standard



INDIAN ECONOMY LOSES 1.1 TRN TO SMUGGLING Indian economy loses #1.17 trillion

due to smuggling in five key sectors revealed a study. The study, conducted by the Federation of Indian Chambers of Commerce and Industry (Ficci) and the Committee Against Smugging and Counterfeiting Activities Destroying the Economy (CASCADE) measures this impact through impact of smuggling in five areas - textiles, tobacco products, readymade garments, capital goods, and consumer electronics - taking into consideration their backward and forward linkages. COMPILED BY INDIVIAL DHASMANA



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ने दिए। उन्होंने गुरुवार को कडा कि सरकार सही समय आने पर इनकम टेक्स को सुट सीमा बदाने के बारे मे पैन्यला लेगी। पिकले सम्राह सरफार ने कारफोरट टेक्स की दर को 30 पर्सेंट से घटाकर 22 पर्सेंट कर दिया था। इसके बाद से मांग और खपत को बढावा देने के लिए इनकम टैक्स बूट सीमा बढाने को आवाजे उठ रही है, ताकि इफर्मामी को गति ही जा सके।

राकुर ने कहा, जब इनकम टेक्स राहत पर फैसला लेने का समय आएगा तो सरकार इस पर निर्णय लेगी। हम पाली भी इनकम टेंबल घुट सीमा बता चुके हैं, 'तब भी ऐमा समय आएगा, इम इस मामले पर पिसार करेंगे। पंताब ऐह

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केलेव किए साम मंदि अनुसा लाहर वे कुर्डमा इत्तर की कहा के सरकार मती समय जिसेव लेगी। विद्याले

नकली वस्तुओं को पहचान के प्रति जागरुकता लाई जाए को 30 प्रतिमान को जह फिल्ली (बाली)। जिल प्रथ बच्चते पाराध्वर 22 प्रतिवास सामान्त्रे के राज्य संपे अनुसान विद्य ताकर ने आसले और संकल्पे करतुओं को पाचन के प्रति तपभोकाओं में रात्रम को बहाय देने जानंग्रकता साने को अधील अरते हुए गुरुकर को कहा कि किनको जैसे संगठनों के साथ सरकार की आंश्वरहरों, तम्बरी सीर पार्व्सी के खिलाभ निवित्वत तोर पर कदम उठाना शाहिए।

apper à uni famai ancà: अर्थव्यवस्था करे तरह कर राही कालमानी और सम्पर्ध सेवो चौरविषियों के विजन्मप क मेरी) द्वारा आगोतित चरकेट 2019 के करें सम्हरण को जहीं करते हुए कहा कि इस बाते पातरे से निपाने में तकतीक का रणपोग करना वालिए।

गुको है। अत्रिय में क्य भी केंग्र समय भाषत्व, तम इस मायले या जित्रार करेंगे।'

(dourit dia) ur fend din in ufritt को लेकर दिस राज्य मंग्री ने प्रथा कि कैसीन विंह को देश में आपने भूमिका है और का अग्राम काम केवल प्रशीके से जनता है। उन्होंने वाने पर वापकर सूह सीमा बस्कों के बारे में अला कि रहने पारणु में पर पियार करने के

> पताल नेजन्त die iteret in अयोगी मेहान फेक्सी all ibur (Byan b. प्रधानमंग्री विहरत जाउन के क्यान पर लाकर के बरावि पा करेंद्र घोटी सरकार के प्रवर्श का नकेना है। बाउन मे कता जा कि मेहल चीकरणी की चारत तथ प्रत्यपित कर दिया जारामा, जन्म प्रसंधेः थास चौजूद सभी वाजुनी जिवल्प खान क्षे आएंगे। उन्होंने कहा

को 2.5 लागर में बाहाभार 5 लागर मध्य कर कि सरकार के दिवल्स एवं प्रत्य तीयन जन्ममता सहिता समेत कई कानूनी के जरिये यह सुनिश्चित्र किया है कि कोई भी जनह का पंताय हह माग्रसङ्ग को । अपिरेटिय बैंक, प्रेय लेकर देश छोतकर नहीं भाग सके।

बाह आफ्रोआई में जह केल्ला किया लेख त्त्रीय प्रांतको और वैक रीने का लाभ हो।



दैनिक जागरण आयकर छूट पर सही समय में फैसला लेगी सरकार

सर्थ दिल्ली, बेट्र किंग्रीय दिल राज्यमंत्री अनुराग जानुर में पुरुषवार को कहा कि समकार साति चमक अपने पर आयकत पुर सोमा बदाने के बारे में विर्णय लेखें। विराले सप्तात सरकार ने करिपीट टेक्स को दर को 30 प्रतिशात के प्रदानक 22 प्रतिशात कर दिशा था। इसके बाद से मारा और खायत को बदाव्य देने के लिया आपकार पुर सोमा बदाने को संग लग्यतार बढ़ रही है, तीक आर्यव्यवस्था को सीर दी जा सके।

राज्य में प्राप्त, 'जब आवश्चर साथ क फैसला लेने का समय आएगा तो संस्थतर हमां पर निर्णय लेगो। सम्बद्धा प्राप्ते भी आयकर की सीमा को 2.5 लाख रुपये में, बाइम्बर पॉच लाख रुपयें कर जुबी है। भीतम्ब में भी जब भी ऐसा समय आएगा. तम इस मामले पर विश्वार करिने।" पंजाब ग्रेंड माहनुष्ट्र को औरवेटन चेंक (गीएनची वैधाः) पर मिलवं कींच के प्रतिबंध को लेकर थि। रहन मंग्रे ने पता कि केंद्रीय चेंक को देश में आपनी भूमिका है और या अपने बाग केलर उर्शके में करता है। उन्होंने कहा कि सभी पहालुओं पर विचार करने के बाद आखीआद ने वह फेसला फिल्म तोगा, ताबिक प्रातको और वैक देवें का लाभ हो।

करियोरेट टेक्स घटाने में विकास को मिलेबी महि । विस राज्यमंत्री अनुवग सिंह ठाकुर ने बात कि करियोरेट टेक्स ने कटीती से देश में किटेसी स्वित बहुंग



अनुसारदाकुर =

कवायद

- केंद्रीय तित राज्यमंत्री ने एक कार्यक्रम में दिया भरतेसा
- कहा इससे पहले भी संरक्षार ने बढाई हे सीमा

और प्रकास को गाँउ पितनेंगे। उन्होंने यह भी कहा कि नकतनें, उनकरों किंध तुए और प्रवर्षदेद प्रोडक्ट में उक्षोनोंनों को बॉत पहुंचती है और गेजमार मुजन को भी धक्कर लगण है। डाकुर का कहन या कि टेक्सराउल, तंपकड़ उत्पाद, मार्थदम, कैंपिटल पुंड्स और कंज्यूपर इलेक्ट्रॉनियम क्षेत्रों में तरकारी ग्रेफने में गेजगा के जयसरों में 16.56 लाख का इजापथ ही सकता है। इन परंच क्षेत्रों में राक्करों में भारत की माल्हना 1.17 लाख करीड़ रुपये का नुकलान उटाज पड़ा है।



Business Standard

India Needs More Awareness To Understand Difference Between Fake And Original Goods

Gets Nature Learning 27 2011 1948 for



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We urged the state-function to manage use of michology is using the growing memory for growing commenter more and princy hald take program, reveal the cost of growing leads to be manifold, have pertype to be contained and creaters unless in domain the formed.

The Indian **EXPRESS** 'Smuggling in 5 sectors cost India 16 lakh jobs in FY18'

Of this, over 5 listh jobs were prevented from being anded to these sectors directly Labour intensive industries like readymate gaments and trafsicop products experienced a churk of the lass in shect livelhood opportunities.



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Smugging of goods in the faithful, made made gaments, cigarather, machinery and parts and consumer electronics industries prevented india from adding over 16 lath jobs in 2017-18, shows a new study on the losse.





अनुराग ठाकुर को अर्थव्यवस्था में सुधार की उम्मीद

जन्मत बुरे

नई दिल्ली 26 सिलाग

रिश्त प्रान्त क्षेत्री अनुसार तनुब ने मुल्का को जला कि करिनेट कर कम महते में प्रारंभिय जुटि और निर्वेश में तेली जाएंचे। प्रतीर कला कि anift stores, south affe is figents read ab toning & wallie not प्रयोगमान्य को पुत्रावर प्रांचल है य रोगना के कीव कर करन है। इन्हेंने इस अवसा पर एवं विपेर्ट के जहीं की।

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वर्णीक यह अर्थायप्रस्य को मन्त्र थे। स्वत्यक सेन है। 1 100 201 328 1

to be were under often fatt at अंग्रानी मानान, तेन्द्रती अदि देः सबसे हैं। इन प्रोच सेल में सबसी से विक्रम्बर महाई की जरूरत हैं (reimone की 1,17,253 करीड़ न्त्रमान ज्यूबात हे व रोगगाः आपूर ने प्रतिप्रेट का में बदीती के का ये कहा कि पर निर्देश में रेजिया in unmi senne affer alle soith

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和國語

THE HINDU

Two police officers from Visakhapatnam

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award hit then performance in law enforcement to carly commertening and emogeting by the PICCI Committee Against Savingfling and Commerfering

of V Madagata, Visaidaguman, Ratiol, T Tatakenwara Rati, newspeed the awards from Union Weinner of State for Finance, Annuag Singh Thakur and Union Minister of Party for Homa Affairs Mityanand Ray on the occasion of MASCRADE 2019 - Movement Against Snorgeled and Constroiver Trade brid

Mr. Mathembra and Mr. Tanabersonn, Ray some annug true police officer, who have jedeined the award, while other two officers are satific by from Kataga.

\Xi 🎹 Securitor direction Soldgemon Constants (200)

district receive FICCI award

Activities Descoving the Limmury (CASCA201)

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district.

START REPORTED

Dijiworld.com 'Stopping smuggling in 5 sectors can create 16.36 lakh jobs' WebTT at AED 11 Only! f 💽 in 🖴 🛨 😝 Challel, Boog 200 (10-1951) Phys. in males Industrial Souther, reading the and in make by our in. Id. In hald When this sidt of on in twent of their related processes of bears and Dimension to in ferromous of functionant intrinsic and multiplier term of these reductives, and the report, adding trad-tic dimension manager approximations for the dense that function and a manager path in 2005/1100

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आपकी 'स्मार्ट शॉपिंग' करेगी आतंकवादियों पर सीधा प्रहार, आपके एक सही कदम से टूट जाएगी उनकी कमर



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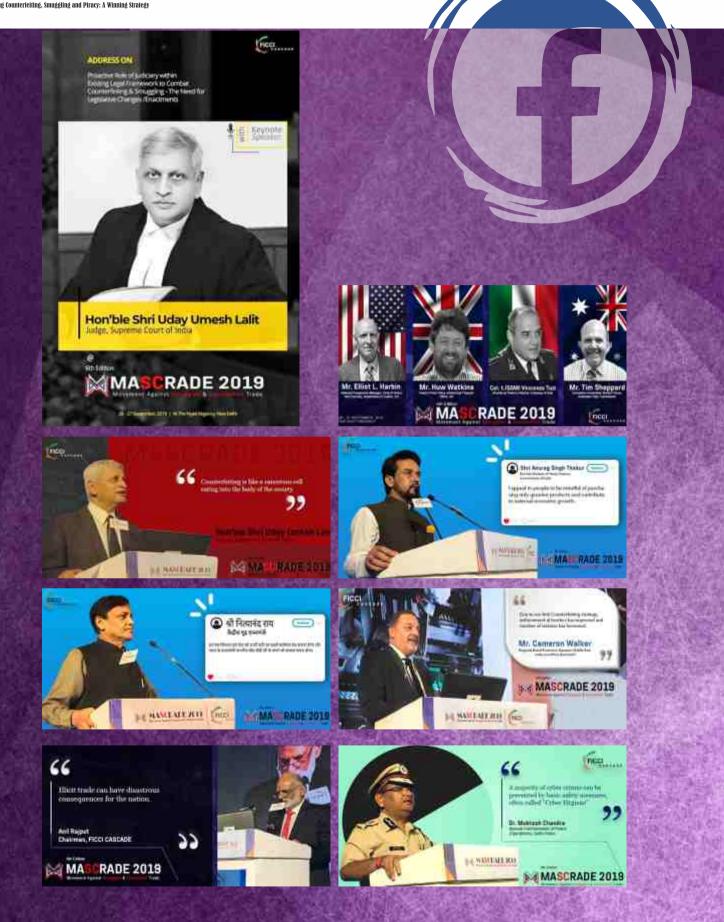
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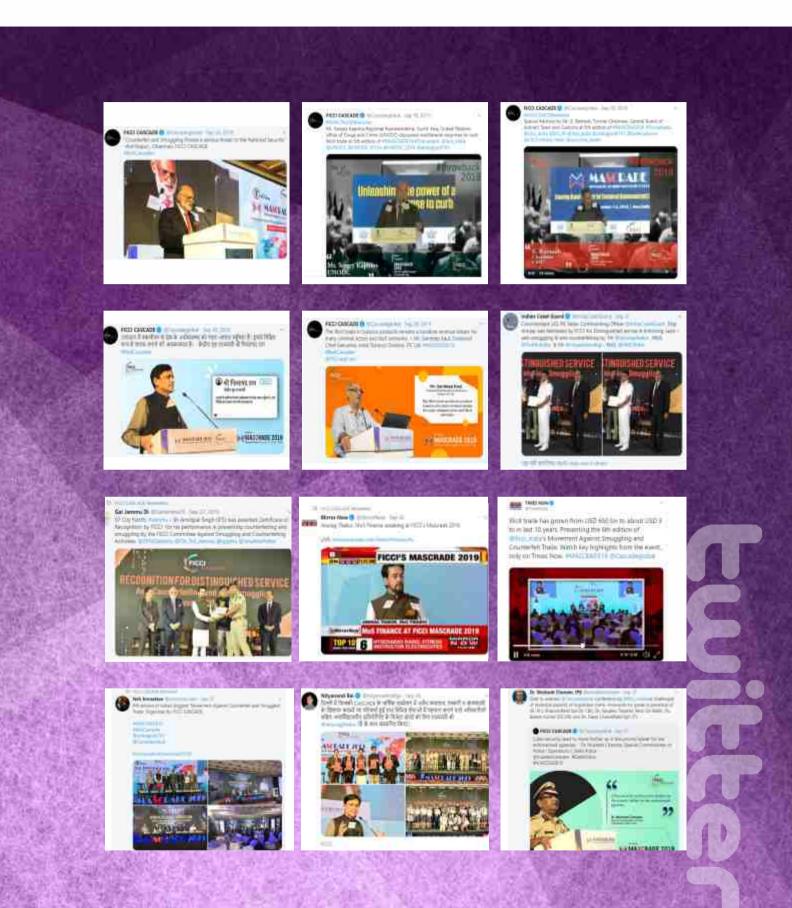




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