

Agenda Item No.3

DERBYSHIRE COUNTY COUNCIL

MEETING OF CABINET MEMBER – HEALTH AND COMMUNITIES

5 July 2016

Report of the Strategic Director – Economy, Transport and Communities

INTELLECTUAL PROPERTY CRIME REPORT 2015-16

(1) **Purpose of Report** To inform the Cabinet Member of action taken to tackle breaches of intellectual property (IP) legislation in Derbyshire.

(2) **Information and Analysis** According to figures provided by the Department of Business Innovation and Skills¹, the cost to the UK economy of IP crime is estimated to be £1.3bn per year. The Creative Industries is one of the eight 'growth sectors' for economic focus within the D2N2 (Derby, Derbyshire, Nottingham and Nottinghamshire) Local Enterprise Partnership and nationally contributes £71bn to the UK economy accounting for 1.68m jobs. Whilst the local authority has a statutory duty to enforce 'intellectual property' legislation, which prohibits the sale and supply of counterfeit goods, priority has been given by the Trading Standards Division to tackling the sale of illicit tobacco because of the impact to both legitimate retailers of genuine tobacco and because the availability of cheap counterfeit tobacco increases smoking prevalence. Derbyshire Trading Standards Service (DTSS) does, however, continue to take enforcement action with regards to other counterfeit products where there are aggravating factors such as: the trader concerned has been previously warned; the scale of fraudulent activity; or that the counterfeit products represent a significant health or safety risk.

The number of complaints received from the public, both consumers and local businesses, during the previous 12 months, has fallen from 100 to 88 which reflects national trends. This figure does not include complaints about counterfeit tobacco, alcohol or food. The vast majority of the complaints relate to goods being offered for sale via the internet and, in particular, social media such as Facebook. DTSS works closely with other enforcers, both locally and nationally, and shares intelligence with the National Trading Standards 'eCrime' Team (NTSeCT). Because of the volume of counterfeit goods available via the internet, DTSS tends to warn people in the first instance and log information on secure intelligence databases. This enables trends to be

¹ <https://www.gov.uk/government/speeches/intellectual-property-priorities-in-business-innovation>

determined and ensures that repeat offenders operating regionally and nationally can be identified. NTSeCT now has a Service Level Agreement with Facebook which enables persons offering counterfeit goods via Facebook to have their web pages 'taken down' which is a cost effective way of reducing the availability of counterfeit goods via this medium.

Details of enforcement activity during the year, which includes the seizure in Derbyshire of some 32,000 counterfeit goods with a 'street value' of approximately £320,000, are contained in the Appendix to this report.

In preparing this report the relevance of the following factors has been considered: financial, legal, prevention of crime and disorder, equality and diversity, human resources, environmental, health, property, social value and transport considerations.

(4) **Key Decision** No.

(5) **Call-In** Is it required that call-in be waived in respect of the decisions proposed in the report? No.

(6) **Background Papers** Held on file within the Economy, Transport and Communities Department. Officer contact details – Robert Taylour, extension 39830.

(7) **OFFICER'S RECOMMENDATION** That the Cabinet Member notes the report.

Mike Ashworth
Strategic Director – Economy, Transport and Communities

Appendix – Summary of Enforcement Activity 2015-16

Derbyshire Trading Standards Service (DTSS) received 88 complaints regarding intellectual property (IP) issues during the previous year (not including tobacco). This is slightly down from the 100 complaints received the previous year, but is in-line with national trends. Products suspected of being counterfeit included DVDs, clothing, bags and sportswear.

The Service responds differently to each enquiry depending on the quality of evidence provided, as well as the location of the supply and/or seller identity.

Where the complaint/enquiry yields significant intelligence on a counterfeiting operation, a log of the intelligence is entered onto the TSEM (Trading Standards East Midlands) regional intelligence database Patriarch (formerly MEMEX). In the past year, DTSS submitted 49 intelligence logs. The database is accessible securely by other Trading Standards Services, and provides a means of recording which individuals are suspected of being involved in IP crime, and where they may operate. It is a useful tool in building up intelligence on a suspect(s) prior to launching an investigation.

DTSS continues to work with other agencies to tackle IP crime, including the Police, HM Revenue and Customs (HMRC), the Anti-Counterfeiting Group (ACG) and representatives of the brand holders, such as GHD.

Of the 88 complaints received by DTSS, the majority of the counterfeit goods were advertised online, either through online auctions or increasingly, social media; namely Facebook. Some 33 complaints about sellers on Facebook were received, compared to 28 complaints the previous year. Counterfeit goods being offered for sale on Facebook has remained a recurring problem for Trading Standards Authorities nationally. The National Trading Standards eCrime Team (NTSeCT) has been in discussion with Facebook's legal team and agreed a protocol in the form of a 'takedown' form – this may be completed by Trading Standards and informs the NTSeCT of an offending profile page. This information is then forwarded to Facebook themselves to remove the profile page.

In addition, the NTSeCT co-ordinates 'Operation Jasper' which concentrates enforcement action on particular problem Facebook profile pages (such as those which continue to offer counterfeit goods despite previous action). The operation involves brand representatives obtaining test purchases with a view to further civil or criminal action. Further details about the involvement of local authority trading standards services' involvement in Operation Jasper can be found in the Annual IP Crime Report available via the following link:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/461792/ip-crime-report-2014-15.pdf

Car boots and markets have not been an issue this year and the Service has not had cause to visit these as often.

Derbyshire Trading Standards continues to contribute to the TSEM IP group to discuss best practice on IP matters to provide a consistent regional approach.

Action Taken

As a result of complaints about counterfeit products on sale in Derbyshire (not including tobacco, alcohol or food), DTSS has taken the following action:

- 12 warning letters have been sent to those alleged to be supplying counterfeit goods.
- 49 intelligence logs have been entered onto Patriarch/MEMEX database.
- Intelligence relating to the sale and supply of counterfeit goods via the internet has been to the NTSeCT resulting in 24 Facebook pages being taken down.
- There are 5 ongoing criminal investigations relating to counterfeit goods, including car accessories, clothing, footwear and other products. Two of these relate to individuals selling on a national/international basis.

Summary of any infringements:

Seizures:

- 197 Belstaff badges: High Street Value c£4,925
- 167 handbags and footwear, bearing brands such as Michael Kors, UGG, Louis Vuitton, Chanel, YSL and Mulberry: High Street Value c£162,075
- 31,500 fake medicines (Viagra etc.): High Street Value - c£150,000

Forfeitures/surrender:

- 142 DVDs: High Street Value c£1,420