

DERBYSHIRE COUNTY COUNCIL

MEETING WITH CABINET MEMBER, HEALTH AND COMMUNITIES

15 June 2015

Report of the Strategic Director, Health and Communities

INTELLECTUAL PROPERTY CRIME REPORT 2014-2015

1 Purpose of the report:

To inform the Cabinet Member, Health and Communities of activities undertaken by the Fair Trading Team to tackle intellectual property crime in Derbyshire.

2 Information and analysis:

- 2.1 Whilst arguably the majority of consumers knowingly buy counterfeit products, they perhaps do not appreciate the harm it causes to the business sector. 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 Local Enterprise Partnership and nationally contributes £71 billion to the UK economy accounting for 1.68 million jobs.
- 2.2 Although tackling intellectual property crime remains a local, regional and national priority, the available resource to respond to complaints and take action with regards to counterfeit goods has been reduced. Accordingly, regionally and nationally we have prioritised those products that might cause harm to health such as unsafe counterfeit products and counterfeit tobacco (which is the subject of a separate report). We also assess all complaints that we receive to determine the strength of the evidence; the volume/value of goods involved; the type of consumer/business detriment; the location of the seller and/or counterfeit goods and the method of sale (ie internet, shop or other businesses premises etc.); whether the perpetrator is identified and if so whether the person is known and/or part of an organised crime group.
- 2.3 Depending on an assessment of the intelligence about counterfeiting activity, there is a range of actions that the Division can take. In most instances it is important that the information is captured and recorded on Departmental databases and logged in a way that can be shared with other law enforcement agencies. The Division utilises a secure system called Patriarch (formerly known as Memex) which allows information to be shared so that patterns of criminal activity can be identified. Where a notification about counterfeiting activity exceeds the priority threshold, action is taken to obtain evidence to support a criminal conviction. This

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

may involve making a covert test purchase; seizing offending goods and associated records; arresting potential offenders (with Police assistance) and interviewing suspects.

- 2.4 Depending on the level of offending, sanctions range from letters of warning, issuing a Formal Caution (known as a 'Simple' Caution), instigating legal proceedings – which might also include a financial investigation to identify and proceeds of crime. Seizing and then subsequently requiring the person responsible for the counterfeit goods to surrender the items so that they can be destroyed or having the offending trade-marks removed, also acts as a powerful deterrent.
- 2.5 There are a number of other agencies that also take action to prevent the influx of counterfeit goods into the UK including Border Force (part of the Home Office), local and regional Police forces and the City of London IP Crime Unit which was set up to tackle – amongst other issues – cyber-crime. The Division works closely with these other enforcement agencies as well as regional and national trading standards colleagues and industry bodies such as the Anti-Counterfeiting Group (ACG).
- 2.6 During the past 12 months the Division has received some 100 complaints about counterfeit goods (not including tobacco or alcohol) which is comparable to last year, but represents a reduction in the previous upward trend. There have been fewer complaints about counterfeit goods being sold at markets and car-boot sales, but more complaints about internet based sales. Because of the low level of counterfeit goods being offered for sale by individual internet traders and the high level of resources required to investigate, relatively little enforcement action leading to prosecution for counterfeit products other than cigarettes or alcohol has been taken. A Formal Caution was issued to a trader who sold £5,684 worth of counterfeit goods, such as T-shirts and mugs which bore logos of pop bands and BBC characters.
- 2.7 The table below shows the type, volume and estimated high street value of counterfeit goods – other than alcohol and tobacco – seized in Derbyshire during the past financial year. Further details about activities to tackle intellectual property crime are provided in the appendix to this report.

Table showing counterfeit goods seized, forfeited and surrendered during 2014-15

Action Taken	Products
Seizures	13 electrical products (including GHD hair Straighteners, Michael Kors watches, Beats by Dr Dre & Bose speakers (High Street value approx. £1,400)
Forfeitures/surrender	1,257 cosmetics (High Street value approx £31,425)

3 Other considerations:

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

4 Background papers:

None

5 Key Decision:

No

6 Call-in:

Is it required that call-in be waived for any decision on this report?

No

7 Officer's recommendation:

That the Cabinet Member, Health and Communities notes activities undertaken to tackle intellectual property crime.

David Lowe
Strategic Director
Health and Communities

Appendix

Project Report Tackling Intellectual Property Crime in Derbyshire 2014-15

Activities Undertaken:

This Service received 100 complaints regarding intellectual property (IP) issues. The complaints covered a range of products, such as DVDs, toiletries/cosmetics, clothing, sportswear, jewellery and headphones.

The Service responds differently to each enquiry depending on other commitments and priorities and an assessment of the potential harm to local consumers and businesses. In addition, the quality of evidence provided, as well as the location of the supply and/or the seller identity will determine the level of response.

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 the Service submitted 53 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.

This Service continues to work with other agencies in the fight against counterfeiting & IP crime, such as the Police, HMRC, the Anti-Counterfeiting Group (ACG) and representatives of the brand holders, such as GHD.

This Service contributed to the National Trading Standards eCrime Team (NTSeCT) Strategic Threat Assessment – a survey at the end of November - to try and determine how Trading Standards throughout the UK were tackling eCrime and consider what additional tools Officers need to deal with this increasing problem.

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

Results:

- Received 100 complaints regarding IP issues (not including food, tobacco or alcohol);
- Submitted 53 intelligence logs onto Patriarch/MEMEX;
- From the 100 complaints, issued 9 Warning letters to those alleged to be supplying counterfeit goods;
- Submitted information to the ACG resulting in 8 Facebook pages being taken down.

Significance of Results:

The number of complaints received has stayed relatively the same as last year suggesting IP crime is still a problem. Car boots and markets, historically a popular

way of selling counterfeit goods, have not been an issue this year and the Service has not had cause to visit these as often this year.

The majority of the counterfeit goods are advertised online, either through online auctions or increasingly, social media, with Facebook presenting the same legal issues as in previous years. For example, this Service received 9 such complaints about sellers on Facebook in 2011-2012. This year, the Service received 28 such complaints.

This may explain why the number of prosecutions for IP infringements (not including alcohol or tobacco) is down on previous years. Difficulties with enforcement (including surveillance & RIPA consequences) have meant that many of the complaints regarding goods being sold on Facebook have not been further investigated by this Service.

Summary of any infringements:

Seizures : 13 electrical products (incl GHD hair Straighteners, Michael Kors watches, Beats by Dr Dre & Bose speakers (High Street value approx. £1,400);

Forfeitures/surrender : 1,257 cosmetics (High Street value approx. £31,425).

Formal caution accepted by a trader who sold £5,684 worth of counterfeit goods, such as T-shirts & mugs, which bore logos of pop bands & BBC characters.

There is an ongoing investigation into the sale & supply of pin badges which allegedly infringe many of the Premier League football club's badges and logos. A further element to the case is that the same badges also carry poppy designs alongside the football badge, & the trader states donations from each purchase go to The Royal British Legion. This case has come from representatives of the Premier League who have made a test purchase & confirmed the badge is counterfeit.

Conclusion:

This year, the majority of the IP investigations concerned tobacco and alcohol (those results are covered in a different report).

At the same time, the number of complaints received regarding goods being sold on Facebook has increased. Subsequently, IP investigations into alleged counterfeit goods, which are not tobacco or alcohol-related, has diminished in the past year.