

Agenda Item No. 3(b)

DERBYSHIRE COUNTY COUNCIL

MEETING OF CABINET MEMBER – HEALTH AND COMMUNITIES

21 February 2017

Report of the Strategic Director – Economy, Transport and Communities

INTELLECTUAL PROPERTY CRIME REPORT 2016

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

(2) **Information and Analysis** The Creative Industries is one of the eight 'growth sectors' for economic focus within the Derby, Derbyshire, Nottingham and Nottinghamshire (D2N2) Local Enterprise Partnership and nationally contributes £84 billion to the UK economy accounting for 2.9 million 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.

During the period April 2016 to December 2016, DTSS has received 90 complaints from the public. Last year, the figure for the entire year was 88. 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 which can be shared with other local authority trading standards services and other enforcement agencies. This enables trends to be 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.

In excess of 13,000 counterfeit items have been seized by Trading Standards officers during the period of the first three quarters of the financial year with a 'Street Value' of approximately £650,000. A fashion retail proprietor from Alfreton was prosecuted for possession for sale of counterfeit 'Michael Kors' bags and purses, 'Ugg' boots and 'Chanel' scarves, and was given a Community Service Order by the Magistrates which was a six week curfew and the forfeiture of 137 counterfeit items. She was also ordered to pay £720 towards the Prosecution costs. Further details of enforcement activity during the year are contained in the Appendix to this report.

(3) **Social Value Considerations** The Local Authority has a duty to enforce those provisions of the Trade Marks Act 1994 that prohibits the sale or supply of counterfeit goods. Breaches of intellectual property rights undermines the investment in design and technology, and can impact on a wide range of goods and services from 'designer goods' to automotive products, pharmaceuticals, music and films. For local business to grow and create wealth and employment, it is essential that they can compete on a fair and equitable basis.

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 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 2016-17 (April to December)**

Derbyshire Trading Standards Service (DTSS) received 90 complaints regarding intellectual property (IP) issues from April 2016 to December 2016 (not including tobacco or food). This is compared to a total of 88 complaints received the previous year 2015 - 16, and is in line with national trends. Products suspected of being counterfeit included handbags, sunglasses and, as a first, medal memorabilia.

The Service responds differently to each enquiry depending on the availability of admissible evidence, the type and volume of counterfeit goods, as well as the location of the supply and the identity of the seller.

Where the complaint or 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 so far, DTSS has submitted 29 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 or Organised Crime Group (OCG) prior to launching an investigation.

DTSS continues to work with other agencies to tackle IP crime, including the Police, Her Majesty's Revenue and Customs (HMRC), the Anti-Counterfeiting Group (ACG) and representatives of the brand holders, such as Ugg and Michael Kors.

Of the 90 complaints received by DTSS, the majority of the counterfeit goods were advertised online, either through online auctions or social media; namely Facebook. So far, 46 complaints have been received regarding goods available online, with 24 of these complaints relating to sellers on Facebook. (Last year, a total of 28 complaints about Facebook were received). 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) continues to use the agreed 'take down' 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 via the following link:

<http://www.nationaltradingstandards.uk/news/products-worth-millions-seized-in-counterfeiting-crackdown/>

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

DTSS 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 so far:

- 13 warning letters have been sent to those alleged to be supplying counterfeit goods.
- 29 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 6 Facebook pages being taken down.
- There are two ongoing criminal investigations – one relates to counterfeit car accessories; the other relates to war memorabilia. Both investigations relate to individuals selling on a national/international basis.

### **Summary of any Infringements:**

#### **Seizures:**

- Quantity of Distinguished Flying Cross, Parachute Regiment, Distinguished Service Order, Military Cross, British Empire and Air Force Cross war medals (some of which retail between £200 - £10,000 each), amongst others, along with associated ribbons and manufacturing dies. Seized from an online trader who was also manufacturing the medals to look like authentic ones, and using oxidising solutions to 'age' them. Full valuation to be confirmed by an expert, but estimated to be c£100,000.
- 13,000 car accessories, including mats and badges to be applied to mats, bearing brands such as SRi, S-Line & BMW, seized from manufacturer who was selling them online. His versions of the mats were retailing for £25-£30. Genuine articles retail for approximately £60-£80: High Street Value c£390,000 to £520,000.

**Forfeitures/surrender:**

- 175 items, including handbags, purses, footwear and sunglasses, bearing brands such as Michael Kors, Ugg, Louis Vuitton, Chanel and Ray-Ban: High Street Value c£35,950.