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COUNTERFEITING GOODS IN GULF BUSINESS: ANY ECONOMIC IMPACT?

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ABSTRACT

The illegal counterfeiting industry costs the global economy hundreds of billions of dollars every year. Through a descriptive approach, this article is trying to have an overlook on counterfeiting culture around the world and Gulf Countries in particular and little more details of its menace in Oman. The objective of the study is to explore the economic impact behind the buying habits of counterfeit goods in GCC's. The study is an explorative in nature. This gave an elaborate way of actual situations in counterfeit goods business in GCC's.

KEYWORDS

Counterfeit goods, Gulf countries, Imitate, Patent goods.

1. INTRODUCTION

o counterfeit means to illegally imitate something. The word *counterfeit* frequently describes both the forgeries of currency and documents, as well as the imitations of works of art, toys, clothing, software, pharmaceuticals, watches, electronics and company logos and brands. In the case of goods, it results in patent infringement or trademark infringement. The Agreement on Trade-related Aspects on Intellectual Property Rights (the TRIPs Agreement)defines counterfeiting as "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". (Arabian Business, 2008). Technically, the English term "counterfeiting" only refers to specific cases of trademark infringement. However, in practice, the term is allowed to encompass any making of a product which so closely imitates the appearance of the product of another as to mislead a consumer that it is the product of another. Hence, it may also include the unauthorized production and distribution of a product that is protected by other intellectual property rights, such as copyright and neighboring rights. This is in line with the German term "Produktpiraterie" and the French term "contrefaçon", which both cover a broader range of intellectual property right infringement (Clark, 1997). Through a descriptive approach, this article is trying to have an overlook on counterfeiting culture around the world and little details of its menace on Gulf Countries in particular. A case of Pharmaceutical and cosmetics sector have given a little emphasize in this research paper because there are significant increase in counterfeiting medicines and cosmetics and it has dangerous consequences too. This paper also tries to take an effort to look at the e

2. THE COUNTERFEITING INDUSTRY AROUNG THE WORLD

The illegal counterfeiting industry costs the global economy hundreds of billions of dollars every year. The trade in fake goods in the region is now worth billions of dollars a year, with governments, law enforcement agencies and major companies battling to tackle a global problem. (Arabian Business-2010). Counterfeit goods are so cheap is because they use inferior materials and manufacturing processes. The counterfeit market is widespread all over the world. In UK for example 20-25% of the market is counterfeit (Business Today, June-2011). In South Africa, as a result of a concerted effort, its comes to 5% of total business. For Brazil is also a big problem because it is so close to Paraguay one of the largest counterfeit cigarette producers after China, reflect how much a government can lose in revenues through lost tax. While the legitimate market in Paraguay is worth around US\$3bn, the country has an installed manufacturing capacity of over US\$50bn. In other words, Paraguay has the potential to make US\$50bn worth of cigarettes but only US\$3bn worth of tax is declared. It costs US\$ 20 bn loss to government (British American Tobacco, BAT, 2010).

Attitudes towards luxurious commodities may be a contributory factor to the increase in the counterfeiting of luxury goods in Europe. The United Kingdom and Italy, in particular, have become notorious for counterfeit fashion wear. Significant evidence of this trend came to light when UK customs officials smashed a £4.25 million racket in 1997 involving 100 000 counterfeit designer labels (HM Customs, 1997). The batches included labels for Ralph Lauren, Calvin Klein and Timberland, among others. The labels would most likely have been sewn into cheap fashion garments such as shirts, jeans and T-shirts made in the United Kingdom. In Perfume market American brands are popular targets for counterfeits, particularly Calvin Klein. (Comité Colbert, 1997).

Nintendo, the largest producer of video game products, claims that China, Chinese Taipei and Hong Kong (China) are the largest sources of counterfeit video games in the world. Trade in pirated software is said to be carried out through cartels with connections in all three countries and the United States. The operations of these cartels cost some US\$800 million in losses to the US market for Nintendo in 1996 (Reuters News Service, 1990-97).

3. COUNTERFEITING CULTURE IN GULF COUNTRIES

According to Richard Partridge, a London Based business executive, "I got Paco Rabanne afershave for myself, Chanel perfume for my wife, and loads of Marlboro cigarettes. I don't even smoke, but at these prices I just had to buy from Dubai," he says.-Is it Counterfeiting? While UAE consumes a relatively low volume of pirated goods compared to its neighbors it serves as a major transit hub because of its strategic locations, excellent shipping and logistics facilities. These facilities made it as a distribution hub. Counterfeiters even take advantage in passing on illegal products from origin to markets –utilizing free zone areas to import, store and re-export to the rest of the world. This could be harmful to the countries reputation and to the legitimate business operating here. It also affects business attractiveness in terms of offering solid protection for intellection property rights. The counterfeit products are becoming increasingly sophisticated and harder to detect. We can see advanced imitations of the boxes and even the security holograms which is used to identify original products. (Arabian Business, February, 2008)). Yemen is losing 70% to 80% of the total market to counterfeiting. Saudi It is as high as 30% to 40 %.(.(Gulf Business, September, 2011)

Another major issue in the Middle East region is fake auto parts. The value of counterfeit auto parts in 2011 is around \$150-200 million. (Gulf Business, September, 2011)The share of counterfeit spare parts in the region is between 12.5% and 40 %.(Gulf Business, September, 2011). The reports suggest that these

may be responsible for around half of all road fatalitilies in Saudi Arabia .Counterfeit brakes pads have been found to consist of a mixture of sawdust and wood particles. If we installed in the vehicle high chance that to catch Fire. Counterfeit spare parts can affect the other parts of the vehicle also. Likewise counterfeit windshields are mostly made from a one layer glass which, in case of an impact, will shatter in particles of different and uncontrolled sizes. An Economic Impact Study Analyzing Counterfeit Products in the United Arab Emirates, in association with Dubai's Brand Owners Protection Group (BPG), reveals that the value of fake goods in the UAE topped US\$696m in 2006 with auto parts at the top of the list at 68.5%.Counterfeit tobacco totaled 22.2%, while cosmetics reached 5.9%, food and beverage, 2.5%, household products, 0.6% and pharmaceuticals 0.2%. (Arabian Business, August, 2010)These goods won't be found in shopping centers and malls but can end up on the many street markets of the region. If no counterfeit goods were bought or sold in the UAE, the report estimates that the UAE could have increased its non-oil GDP by US\$1.72bn, its tax collection by over US\$110m and its employment level by around 31,000 positions. But it is not only the UAE economy which suffers, it is the brands themselves.

The Royal Oman Police (ROP) have foiled a second attempt recently to smuggle counterfeit cigarettes into Oman from the Wadi Jizzi border post near Buraimi, according to a press release from the police(May-22/2011). The officers at the customs check point at Wadi Jizzi detected 700 packs of counterfeit cigarettes concealed in a water tank. Last time the customs officers had recovered counterfeit cigarettes worth 10,000 Omani riyals but this time the value of the contraband has not been revealed by the police. But the country of origin of this counterfeit is still not available. (The week, October, 2011). Dubai is particularly attractive for counterfeiters because of its close proximity to the Persian Gulf between Asia, Europe and Africa. Records show that nearly one third of all counterfeit goods in Europe came through the UAE.

4. COUNTERFETING IN PHARACEUTICAL AND COSMETICS

Counterfeit medical products are defined by the WHO as ones that are "deliberately and fraudulently mislabeled with respect to identity and/or source" (WHO/IFPMA, 1992). Today they are members of organized transitional criminal enterprises with complex distribution networks (Arabian Business, August, 2009). There are significant increase in the number of countries where counterfeit medicines have breached the legitimate supply chains—from just seven in 2006 to 50 in March 2011. Six of these countries are in the MENA region: Egypt, Jordan, Kuwait, Libya, Saudi Arabia and U.A.E. These products are made in locations that are unlicensed, unregulated, not inspected and insanitary. (Gulf Business, October, 2011)). A variety of factors account for why medicines are attractive for counterfeiting. Medicines are high value items in relation to their bulk and the demand for medicines is vast. Furthermore, for the counterfeiter, ingredient costs can be very low if cheap substitutes are used or if these are omitted altogether, as is often the case. Last year Dubai Customs announced they had seized five million counterfeit tablets and out dated food products from a warehouse belonging to Euro Gulf Trading in the Jebel Ali Free Zone. (Gulf Business, September, 2011)

The US-based Centre for Medicines in the Public Interest predicts that counterfeit drug sales will reach US\$75bn globally in 2010 - up more than 90% from 2005. And in many cases these counterfeit drugs are fatal. In 1999 at least 30 people in Cambodia died as a result of taking counterfeit anti-malarias prepared with an older less-effective ant malarial which were sold as Artesunate. In 1995 over 80 children in Haiti and 30 infants in India died after taking a paracetamol cough syrup containing a toxic chemical most commonly used in antifreeze products. We are not even imagine the situation where the parent, who thinks their child has been protected from pneumococcal diseases, never finds out that in fact they were given a counterfeit that has no active ingredient, (Interview- Robert Essner, CEO of Wyeth Pharmaceuticals)

Counterfeit cosmetics are also proving to be a growing market, and like medicine is a highly profitable trade with sometimes dangerous consequences. The counterfeit cosmetic industry is such a lucrative business because if you take any good brand and offer a product that looks the same but is cheaper than the product in terms of price. People don't knowingly want to buy counterfeit cosmetics because ultimately they are applying it to the skin and the effects can be quite harmful. The biggest issue with counterfeit cosmetics is microbiological contamination because they simply do not have the same high standard of manufacturing process or quality of raw materials that the branded companies use because these are factors which help keep the cost low. Oman showcased the rampant spread of counterfeit fragrances in Oman.(The Week,September,2011). Omar bin Faisal al Jahaadmi the Director General of consumer services and market control at the Ministry Of Commerce and Industry had admitted that ministry is well aware of this menace but it's pretty difficult to move off these products from market by department level. The pharmaceuticals from Dubai Customs' September, 2011 seizure were traced back to China - the beginning of a trading route which continues to Hong Kong, the UAE, Britain and the Bahamas. If the drugs had made it to the Bahamas, they would have eventually been sold to customers in America who would have been led to believe the products originated from Canada.

5. THE ECONOMIC IMPACT OF COUNTERFEITING

Counterfeiting is not limited to a few products and or to a certain countries but it's a global menace affecting a wide range of industries and moreover it has a devastating impact on society as a whole. Industries worldwide lose billions of dollars to counterfeits. Economy-wide, counterfeiting and piracy undermine creativity and Innovation, which is key to economic growth. (Arabian Business, 2008))...In the US, the copyright industries provide 11% of GDP through companies such as Disney or Pixar. Pan Arab region could enjoy the same economic benefits from creativity but large countries like Saudi and Egypt not having adequately protected copyrights. These same countries have 90% of the piracy rates. While Emirates have created an environment for creativity through free trade zones. The home entertainment segment loses 500 million Saudi Riyals every year –let alone the losses to the retail, merchandising, advertising, promotion, media and videogames. (Gulf Business, 2011). The economic impact of counterfeiting can be placed into different areas; costs to the right holder, costs to countries where counterfeiting takes place, costs to countries where counterfeits are sold and social costs:

5.1. COSTS TO THE RIGHT HOLDER

It has been estimated that industry world-wide loses billions of dollars every year to counterfeiters which adversely affecting the country's economy in different ways. First of all, industries which find themselves in direct competition with counterfeiters suffer a direct loss in sales. Certain markets are even dominated by counterfeiters, creating blockade of entry for the producers of the authentic product. Some would argue that the buyers of the fakes would not have bought the genuine item but that is a very narrow argument and can only apply to a small segment of luxury goods. Many counterfeit products today are of higher quality and compete directly with the genuine items. In addition, consumers who are deceived into believing that they bought a genuine article when it was in fact a fake, blame the manufacturer of the genuine product when it fails, creating a loss of goodwill. (OECD, 1998) Even cheaper and obvious copies that are bought in good faith represent a serious threat to the company that wants its brands associated with quality and exclusivity. One should not forget the expenditure involved in protecting and enforcing intellectual property rights. The right owner becomes involved in costly investigations and litigation when combating counterfeiters and may also have to spend further sums on product protection. The budget for anti-counterfeiting is rarely well defined within an organization, but spans across several departments such as marketing, human resources, product development and legal departments.

5.2. COSTS TO COUNTRIES WHERE COUNTERFETING TAKES PLACE

Counterfeiting affects global business in many ways sooner or later. Firstly, Foreign producers of reputable products become reluctant to manufacture their products in countries where counterfeiting is widespread as they cannot rely on the enforcement of their intellectual property rights. Hence, such countries not only lose direct foreign investment but also miss out on foreign know-how. Second, if many products from such countries, including genuine ones, gain a reputation of being of poor quality, this will cause export losses which in turn implies both job losses and loss of foreign exchange. It could be argued that the counterfeiting industry creates jobs but these jobs are often poorly paid, often involve substandard working conditions and sometimes use child labor. Third, the foundation for new business development in a country is the existence of a legal system to protect the rights of the entrepreneur and to promote fair competition. (OECD, 1998). The prevalence of counterfeiters in a market discourages inventiveness in that country since it deters honest producers from investing resources in new products and market development. A further direct loss for the government of countries that become havens for counterfeiters, are tax losses, since the counterfeits are normally sold through clandestine channels and counterfeiters are not generally keen to pay tax on their ill-gotten gains. Fiscal losses are increasingly shown to justify action by enforcement officials.

5.3. COSTS TO COUNTRIES WHERE COUNTERFEITS ARE SOLD

The economic cost of counterfeiting is much higher for countries which have strict enforcement of intellectual property rights. (OECD, 1998) These countries faces more job losses missed sales opportunities and lost tax revenues. In the long run counterfeiting discourages investment in product development since a company will not get all the benefit from its investment. The governments of countries where counterfeits are sold will also have to expend increasing amounts of money in funding police and other investigation and enforcement operations. Furthermore, the judicial authorities, including the courts and prison service, need to spend additional time and money in sentence.

5.4. SOCIAL COST

However, many consumers believe they are getting a bargain when they buy counterfeits, the actual value of the product is normally much lower. Hence, they end up paying an excessive price for an inferior product. The inferior quality of many counterfeits, particularly those relating to health and safety, has had disastrous effects. It is no longer rare to find counterfeit parts in aircraft and other vehicles causing death and injuries, or counterfeit pharmaceuticals in hospitals. Workers in factories where counterfeits are produced are frequently exploited. They often work in a poor working environment and are repeatedly exposed to health and safety risks. In addition, they are generally poorly paid. Counterfeiting has attracted both organised and petty criminals who have not only derived huge profits from this trade but have also used it, both as a means to invest the proceeds of crime and to finance other crimes.

6. CONCLUSION

Counterfeiting is a severe problem and the common perception is that it is increasing in considerable level. However, it is virtually impossible to find accurate statistics to substantiate these perceptions, not least because of the clandestine nature of the activity. The overall costs of counterfeiting in the world today are normally estimated to be 5-7 per cent of world trade. (Arabian Business, 2010) There is no substantial aggregated data to support the high percentages, but the figures are now accepted and used to illustrate the extent of the counterfeiting problem Most companies that market their products internationally have experienced some problems with counterfeiting. Yet, for many, it is only during the last few years that they have formulated any systematic anti-counterfeiting policy. Strategies are now discussed in wider groups and most conferences on product counterfeiting will have at least one company sharing its experiences of combating counterfeiting. Anti-counterfeiting work is regarded as goodwill rising, and more and more companies are seeing the advantages of publicising their efforts. It is not only the most heavily counterfeited industries, such as software and music, but also companies from the wine and spirits and motor industries that participate at these conferences.

With counterfeiting soaring more and more companies are taking a proactive role in preventing their products from being counterfeited. (The Week, October-2011). It would be unrealistic to expect any measures to eliminate counterfeiting forever, but the aim should be to make it unattractive for the fraudsters to target the company's products. Safeguards against counterfeiting within private organizations have three main ingredients: anti-counterfeiting policy, technologies and legal enforcement. Co-operation between private industry and enforcement agencies needs to be re-enforced. Police and customs officers lack sufficient expertise to be able to identify goods that infringe a company's intellectual property rights. Infringers employ various modus operandi and are very innovative. Both parties – business and officials – have now realised that the internationalisation of fraud, its growth in magnitude, and the sophistication of infringers, renders it impossible for any company to successfully address the problem in isolation. On October 1, 2011 the governments of eight nations including Japan and the United States signed the Anti-Counterfeiting Trade Agreement (ACTA), which is designed help protect intellectual property rights, especially costly copyright and trademark theft. (The Week, October-2011). The signing took place a year after lengthy negotiations among 11 parties: Australia, Canada, the European Union, Japan, the Republic of Korea, Mexico, Morocco, New Zealand, Singapore, Switzerland and the United States. The EU, Mexico and Switzerland have not yet signed the agreement. Some commentators argue that the agreement is worthless without Chinese involvement, as China is the main source of the world's counterfeit goods products.

Under the patronage of EH Sultan BinSalim Al Habsi, Undersecretary, Omani Ministry Of Finance, The Brand Owners Protection Group (BPG), the largest non-profit organization in the Gulf committed to combating counterfeit trade, in association with the Oman Association for Consumer Protection, is staging a training workshop to enhance the skills of customs inspection officials in detecting illegal merchandise and distinguishing the counterfeited products from authentic branded products. (The Week, October, 2011). The Brand Owners Protection Group (BPG), the largest non-profit organisation in the Gulf, is conducting the session to enhance the skills of customs officials in detecting illegal merchandise when it arrives on the Sultanate's shores. As the Counterfeit traders pose health hazards and endanger the lives of members of society as they extend their ventures into pharmaceuticals and fast moving consumer goods, and this is one aspect that this is the peak time to build new relationships with authorities and consumer protection organizations in the GCC and the greater Middle East region to focus on to prevent counterfeit goods.

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