

**IP**

**CRIME**

**ANNUAL REPORT 2009 - 2010**



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# Foreword



The broad range of activities highlighted in this year's IP Crime Report demonstrates the excellent progress made during 2009/10, by all our members, in tackling IP Crime.

IP crime is a serious problem for at least three main reasons:

- It is damaging our economic wellbeing – affecting big business but also smaller businesses like retailers who rely on genuine commerce to earn a living.
- It also poses considerable risks for consumers – through dangerous goods like fake medicines and electrical goods or counterfeit alcohol containing dangerous substances.
- Those engaged in counterfeiting and piracy are often found to be involved in other criminality – including drugs and gun smuggling, people trafficking, money laundering and child exploitation – as it provides an easy way for them to make a profit to fund other illegal activities they are involved in.

The sale of counterfeit goods takes place in a range of locations – as demonstrated by the case studies within this report and the results of the IPO's trading standards survey. Market stalls and car boots have been identified by many as a particular problem and I am encouraged by the action being taken here, with the work of the National Markets Group playing an important role since it was launched last summer.

The Internet remains an important area of concern for all of us – due to its growing importance as a shopping choice for consumers and the anonymity it can provide for those selling fake and pirated products. We have seen some good results over the year in relation to online activities - with new partners coming on board, like nominet, the UK domain name registry.

I am encouraged by the progress I have seen since joining the National IP Crime Group in 2007. Work to identify and disseminate best practice to the IP community is continuing, with valuable guides like the Supply Chain Toolkit providing advice to SMEs on how to protect themselves. There have been some innovative awareness and training programmes this year and we must continue to push this work forward. We must also look to take consumers with us – helping them to understand why they should reject fakes. Underpinning all of this; has been the strong focus on intelligence sharing and joint operations – with increasing links being made between cases.

Collaboration is a key theme throughout the report, and there are many good examples of industry, enforcement agencies and rights holders working together to combat IP crime. The results of this year's survey of trading standards authorities is inspiring – with 85% of respondents saying that they worked with other trading standards services on IP crime and over 90% working with police colleagues. Effective use of intelligence has been a key part of this success – and the IPO's Intelligence Hub has developed its important role yet further, providing a central UK database on IP crime and working to support investigations.

The next few months will be challenging, with all parts of local and central government looking to make savings. Against this backdrop we all need to continue to work to make the UK a hostile environment for IP criminals – working together to make the best use of resources and utilising the tools we have at our disposal, like the Proceeds of Crime Act 2002.

**DCC Giles York**



# Executive summary

This year's IP Crime Report (the Report) highlights the wide range of actions being taken by industry, enforcement and government to tackle the problem of intellectual property (IP) crime in 2009/10. There has been a significant volume of collaboration across agencies during the year – on tactical activities, wider information exchange and on action to build skills and raise awareness.

The Report sets out the broad picture on the scope and scale of IP crime, drawing on a variety of sources. 104 trading standards authorities responded to the Intellectual Property Office's (IPO) survey in December 2009. Other data used to populate the Report included seizure statistics compiled by the IPO's Intelligence Hub, contributions from enforcement, industry and rights holders and general research conducted by the IPO.

## *The extent of IP crime*

This data helps to build a clearer picture of IP crime. However, it remains difficult to establish the likely impact of IP crime accurately, due in part to the fact that such activities tend to take place outside of the formal economy. Industry sectors have their own estimations of the loss they incur due to counterfeiting and piracy. Chapter 1 of the Report highlights information from a range of parties as well as looking at the wider impact of IP crime, including health and safety issues and the links to organised crime and other criminality.

## *Distribution routes*

The first chapter also considers how counterfeit and pirate goods are distributed, recognising that those engaged in IP crime make use of a range of distribution methods to reach consumers. The IPO's survey of trading standards authorities highlighted this – with a broad range of locations from markets to shops to online trading platforms. The internet continues to feature as one of the main routes to market for IP criminals seeking to sell counterfeit or pirated products.

Markets and car boot sales also continued to be identified as a problem area for the sale of counterfeit and pirated products. Independent research commissioned in 2009 by the clothing and footwear sector estimated that over £750 million worth of these type of products were sold at markets each year. The launch of the Real Deal Campaign by the Industry Trust for IP Awareness in 2009 was aimed at tackling this problem. It has proved to be successful with over 61 markets signing up to the campaign's charter by the end of the year (across 16 local authorities) and another 65 local authorities having expressed an interest in working towards adopting the charter.

Counterfeiting and piracy are global problems and many of the products that are seized are found to be imported. The work of our customs authorities is key in this area particularly at air, sea and land borders. Chapter 1 highlights a number of cases where international smuggling gangs have been interrupted.

## *Tackling IP crime*

The Report demonstrates how consumers are directly affected by IP crime and how products like fake pharmaceuticals, alcohol and electrical products can pose a threat to their personal health and wellbeing. Consumers may also be exposing themselves to wider risks, such as identity theft and attack by computer viruses, particularly when shopping online.

Chapter 2 of the Report highlights the wide range of actions being taken. There have been many successful projects over the past year aimed at tackling IP crime, some of which are highlighted in this Report. These include work by trading standards services within local authorities to address the sale of counterfeit goods on the streets, to new working arrangements at the UK Border Agency to target fake and pirate goods coming in through seaports.

A key component of this work has been an increased focus on collaborative working, with enforcement interests working closely to share intelligence, expertise and resources. The IPO's Intelligence Hub plays an important role, running the national IP Crime database and providing practical support to investigations. Enforcement agencies have also been working increasingly closely with industry.

## *New Initiatives*

The past year saw a number of new initiatives alongside the continuation of established projects, some of which are highlighted in Part B of Chapter 2. One such area has been the work carried out in Northern England on tackling illicit tobacco. Action to raise awareness and build skills is an important part of the work to tackle IP crime and progress in this area is reported in Part C of Chapter 2. A range of activities have taken place throughout the year, some of which are focused on specific types of goods while others are more general in nature. This has included bespoke training for law enforcement officers on counterfeit medicines as well as events focused on intelligence training. Advice on the potential role of the Proceeds of Crime Act 2002 in tackling IP crime has also continued to be a priority area.

Industry bodies have continued to play a key role in working to raise awareness, through events such as the Anti-Counterfeiting Group's regional roadshows as well as targeted training on specific topics like film piracy, counterfeit spirits and electrical products. Industry have sought to evolve their previous campaigns and innovate, for example through the launch of the *You Make the Movies* campaign which is funded by the Industry Trust for IP Awareness. The campaign, which was launched in April 2009, has focused on delivering behavioural change amongst UK consumers

Chapter 2, Part D also provides information on the number of people convicted of criminal offences or cautioned under IP legislation as well as information on seizures. According to government figures highlighted in this chapter there has been an 18% rise in those found guilty of offences under both the Copyright, Designs and Patents Act 1988 and Trade Marks Act 1994. This section also highlights the outcome of important test cases, like the prosecution of an individual under the Fraud Act 2006 who was recording a film in the cinema on his mobile phone.

Another important area is the continued use of the Proceeds of Crime Act 2002 to ensure that IP criminals do not benefit financially from their crimes. The Report highlights a number of successful cases, including a confiscation in Kent totalling over £3 million relating to the sale of counterfeit goods.

All of these successes continue to work towards spreading the message that IP crime does not pay and that government, industry and enforcers take this form of criminality seriously. It will remain a priority for the organisations involved in this collaborative approach to move forward with current initiatives and to also look at new ways of combating IP crime so that it can be significantly reduced.

# Chapter 1: Setting the scene - the IP crime landscape

## A. Defining IP crime

IP crime is a general term used in the UK to describe counterfeiting and piracy. It occurs when an individual or a group of individuals infringe the rights of trade mark and/or copyright owners, for example, by engaging in the manufacture, sale or distribution of counterfeit goods or pirated content.

**Digital IP crime** is a term that is used to cover criminal activity that relates to digital formats which are protected by copyright. Essentially it covers the copying and distribution of digital files containing music, films, software, video games etc in the course of a business or carried out on a commercial scale. It includes DVDs and CDs (the “traditional” optical media discs) as well as digital files that are sent across computer networks or uploaded onto the internet. It does not include individuals’ infringements of copyright, for example through unauthorised downloading via Peer-to-Peer (P2P) file networks, except where it is done during the course of a business or carried out on a commercial scale.

**Physical IP crime** covers the counterfeiting of many different types of products, where the brand or trade mark of a product has been infringed or copied. It also covers copyright piracy of non-digital products, such as books.

Traditionally, perceptions of physical IP crime have been associated with luxury consumer goods or branded clothing and footwear. In reality counterfeiters do not limit their activities to these kinds of products. The range of products that are subjected to counterfeiting is broad. From pharmaceuticals and healthcare products such as toothpaste, to pesticides, tobacco and alcohol as well as electrical goods like hair straighteners and chainsaws and components like aeroplane spare parts.

## B. Overall scope and scale

The overall picture on the scope and scale of IP crime is broadly similar to last year.

In **economic terms** the precise scale of IP crime and its impact can be difficult to establish. This is due in part to the lack of a standard recognised methodology for calculating loss but is also because by its very nature

IP crime is part of the informal (and thus unrecorded) economy.

In November 2009 the Organisation for Economic Co-operation and Development (OECD)<sup>1</sup>, updated its 2008 study into the global scale of counterfeiting and piracy in tangible products. The revised update puts the figure closer to \$250 billion<sup>2</sup> (up from \$200 billion). It should be noted in the study that domestically produced fake and pirated products and digital piracy (which includes both criminal and other digital infringement) were excluded from the work of the OECD who concluded that such activities were likely to increase this figure by several hundred million US dollars.<sup>3</sup>

According to a report published by the European Commission in July 2009,<sup>4</sup> the number of goods suspected of infringing IP rights and detained at the European Union (EU) external border in 2008 increased by 126% to 178 million articles, compared to 79 million in 2007. The main source country for these products was reported to be China, with 54% of the total originating from there.

For the UK, the 2007 Rogers Review<sup>5</sup> estimated that criminal gain from IP crime in the UK was £1.3 billion in 2006 with £900 million of that figure considered to be flowing into organised crime. Many parts of industry estimate that the figure is now higher than this.

The Medicines and Healthcare products Regulatory Agency (MHRA) has seized £6 million worth of counterfeit medicines since 2006.

There is a lack of consensus around the precise impact of counterfeiting and piracy with the range of studies and estimates from governments and industry presenting varying opinions. Some reports are viewed with scepticism – and it is recognised that poor analysis in this area can be damaging to ongoing progress as it can detract from the scale of the problem. In some instances studies can cover a wider range of activities than criminal law breaches and may also include assessments of the impact of civil law infringements. Nonetheless as a recent assessment by the US Government Accountability Office found, “the studies and experts we spoke with suggested that counterfeiting and piracy is a sizeable problem which affects consumer behaviour and firms’ incentives to innovate”.<sup>6</sup>

1 [http://www.oecd.org/home/0,2987,en\\_2649\\_201185\\_1\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/home/0,2987,en_2649_201185_1_1_1_1_1,00.html)

2 [http://www.oecd.org/document/23/0,3343,en\\_2649\\_34173\\_44088983\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/document/23/0,3343,en_2649_34173_44088983_1_1_1_1,00.html)

3 OECD noted that the available information on the scope and magnitude of counterfeiting and piracy provides only a crude indication of their scale.

4 ‘Report on EU Customs Enforcement of Intellectual Property Rights (IPR’s)’ – [http://ec.europa.eu/taxation\\_customs/customs/customs\\_controls/counterfeit\\_piracy/statistics/index\\_en.htm](http://ec.europa.eu/taxation_customs/customs/customs_controls/counterfeit_piracy/statistics/index_en.htm)

5 [http://archive.cabinetoffice.gov.uk/rogersreview/upload/assets/rogersreview/rogers\\_review\\_2007.pdf](http://archive.cabinetoffice.gov.uk/rogersreview/upload/assets/rogersreview/rogers_review_2007.pdf)

6 <http://www.gao.gov/new.items/d10423.pdf>

### US Government Accountability Office: impact of counterfeiting and piracy

In 2008 the US Congress passed the Prioritising Resources and Organisation for Intellectual Property Act 2008 to improve the effectiveness of the US government's efforts to protect IP rights. The Act directed the US Government Accountability Office (GAO) to provide information on the quantification of the impact of counterfeit and pirate goods. In April 2010 the GAO published its report.

The GAO concluded that counterfeiting and piracy have produced a wide range of effects on consumers, industry, government and the economy as a whole. The precise effects were found to vary depending on the type of infringements involved and other relevant factors. The GAO also recognised the difficulty in estimating the impact of IP crime, due to its underground nature and the variances between sectors, and likely consumer behaviour, but recognised that research in specific industries suggests that the problem is sizeable.

The research identified a range of negative effects of counterfeiting and piracy, for stakeholders:

**Consumers:** health and safety risks, low quality goods;

**Industries:** lost sales and brand value, increased IP protection costs;

**US government:** lost tax revenue, increased enforcement costs and risks to supply chains with national security or safety implications;

**US economy:** lower growth and innovation, declining trade with countries having weak IP rights enforcement.

Some experts and literature also identified some potential positive effects of counterfeiting and piracy. These included the potential positive effects on consumer surplus through the purchase of cheap counterfeit goods. However it was noted that the long term impact, including reduced incentives for research and development, was considered to be unclear.

The Intellectual Property Office's (IPO) annual survey of trading standards authorities in the UK for 2009, which is discussed in Chapter 3 of this Report, found that a broad range of products were investigated over the period with over 90% of respondents having been involved in investigations relating to designer goods. This was closely followed by DVDs and CDs.

The case studies included within this report also serve to highlight the range of IP crime and its economic and social impact.

## C. Scale and impact of IP crime: industry perspectives

The challenges faced in estimating the overall scope and scale of piracy and counterfeiting apply equally to assessments within specific sectors. Many of the industry sectors have their own estimations of the impact of IP crime and these can help to illustrate the likely scale of the challenge that is faced. Some studies are wider than IP crime and include the estimated impact of civil infringements by individuals.

- International Federation of Spirit Producers' (IFPI) Digital Music Report which was published in January 2010 claims that piracy has been the major factor behind the overall global market decline of around 30%<sup>7</sup>.
- The British Recorded Music Industry (BPI) estimate that online copyright infringement cost the UK music sector an estimated £200 million in 2009 and some 7.3 million people engaged in unlawful filesharing.
- During 2009, the Entertainment and Leisure Software Publishers Association's (ELSPA) IP Crime Unit seized over 90,000 master games discs or computer files used to make and sell copied games from homes, business premises or car boots/markets throughout the UK. It is impossible to determine how many copies were made using these discs and this figure is not the total number of discs seized during the year. It is quoted to show that criminals have largely changed their method of operating and usually "burn discs to order" rather than keep large stocks of illegal product.
- The Alliance Against IP Theft (AAIPT) and the Anti Counterfeiting Group (ACG) estimate that the cost of IP crime to the clothing and footwear industry is around £3.5 billion per year.<sup>9</sup>
- British Software Alliance (BSA) and the International Data Corporation (IDC) estimate that 27% of software installed in the UK from 2008-09 was illegal – equating to an estimated loss to the industry of £1 billion.<sup>10</sup>

7 [http://www.ifpi.org/content/section\\_resources/dmr2010.html](http://www.ifpi.org/content/section_resources/dmr2010.html)

8 The Entertainment and Leisure Software Publishers Association (ELSPA)

9 [http://www.allianceagainstiptheft.co.uk/facts\\_figures.html](http://www.allianceagainstiptheft.co.uk/facts_figures.html)

10 <http://www.bsa.org/country/News%20and%20Events/News%20Archives/global/05112010-globalpiracystudy.aspx>

- The Alliance for Grey Market and Counterfeit Abatement (AGMA), based in the USA, estimates that in 2006 up to 10% of technology products sold worldwide were counterfeit, which amounted to US \$100 billion of sales revenues.<sup>11</sup>
- According to the results of the latest (November 2009) anti-piracy tracking study by IPSOS, for the British Video Association (BVA) and the Audio Visual Sector, in 2009 the whole sector suffered a £535 million loss in sales due to copyright theft of film and TV content.

#### Memory Cards

Carmarthenshire Trading Standards identified a trader offering counterfeit memory cards (2 Gb Sony Memory Stick High Speed Pro Duo and Sandisk Ultra II 2Gb CF Compact Flash Memory Card) at approximately 20% below the normal retail price. The trader had been trading for approximately 10 months and sold around 10,000 counterfeit cards with a street value of £1.75 million. The trader was prosecuted by trading standards under section 92 of the Trade Marks Act 1994 and a confiscation order of £320,000 was made against him utilising the Proceeds of Crime Act 2002 (PoCA).

#### May 2009 – Report from The Business Action to Stop Counterfeiting & Piracy (BASCAP) on estimated impact of counterfeiting on governments and consumers

In May 2009 BASCAP published a report looking at the impact of counterfeiting on governments and consumers<sup>12</sup> - from the overall perspective of the G20<sup>13</sup> and for individual countries including the UK. Their report estimated the annual loss to the G20 economies from counterfeiting as being €100 billion.

##### Estimated impact on G20 economies each year

Counterfeiting & piracy total loss	€100 bn
Tax Revenues	€ 62 bn
Economic cost of lives lost as a result of counterfeiting	€ 14.5 bn

##### Estimated loss to UK every year

Losses due to higher welfare spending and lost taxes	€ 4.1 bn
For every 1% of increase in IP crime a loss to society	€1.7 bn
Total jobs lost; 31,000 of these will be unable to find re-employment	380,000

In March 2010 the International Chamber of Commerce published a report by TERA Consultants (a Paris based consultancy) which focused on piracy in Europe's music, film, television and software industries. 'Building a Digital Economy: the Importance of Saving Jobs in the EU's Creative Industries'<sup>14</sup> estimated that the value added by the creative industries (and their dependant industries) across the EU was €860 billion in 2008 (6.9%GDP) and that physical and digital copying caused an estimated revenue loss of €10 billion and 185,000 jobs over that period. The report considered that if this trend continued then up to 1.2 million jobs and €240 billion worth of European commerce could be wiped out by 2015.

#### Areas of risk: routes to market

Those engaged in counterfeiting and piracy use a variety of means to introduce their products to the market. In some instances the products they are selling will be actively marketed as fake or pirate. In other instances customers may believe that they are purchasing the genuine article. The main distribution routes to customers include market stalls, itinerant street sellers and sales over the internet.

Often sellers will adopt multiple routes to market, working across a variety of platforms or in a range of geographical areas. This can create difficulties for enforcement as it increases the risk of displacement as IP criminals adapt to changing enforcement tactics by moving to new locations or trying new distribution routes.

<sup>11</sup> This does not take into account consequential losses.

<sup>12</sup> <http://www.iccwbo.org/uploadedFiles/BASCAP/Pages/Impact%20of%20Counterfeiting%20on%20Governments%20and%20Consumers%20-%20Exec%20Summary.pdf>

<sup>13</sup> [http://www.bing.com/reference/semhtml/?title=G-20\\_major\\_economies&src=abop&qvt=g20&q=g20&fwd=1](http://www.bing.com/reference/semhtml/?title=G-20_major_economies&src=abop&qvt=g20&q=g20&fwd=1)

<sup>14</sup> <http://www.music tank.co.uk/reports/building-a-digital-economy-the-importance-of-saving-jobs-in-the-eus-creative-industries>

**Markets stalls and itinerant street sellers** are a key method for the distribution of pirated digital goods like optical media discs and circumvention devices as well as a wide range of counterfeit goods.

The IPO's 2009 survey of trading standards authorities revealed that outdoor markets continued to be a problem with over 80% of respondents (83 out of 104) having conducted investigations in this type of location.

In June 2009 'The Real Deal' campaign was launched which is aimed at tackling the problem of fake and pirated goods being sold at markets. This initiative is reported on in Part B of Chapter 2 of this Report.

In the 2009 survey of trading standards 50% of the authorities that responded (56 out of 104 respondents) reported that they had encountered street selling of fake and pirated goods during the period. There was a fairly even spread across the regions with at least half of respondents in each region reporting that they had found occurrences of street selling.

**The online environment** is another important area of focus for work to tackle IP crime. Continued development of technologies and the growth of the internet have created more opportunities for criminals to exploit IP rights. OECD predicts that the volume of sales over the internet will rise by 20% to 30% per year over the next few years<sup>15</sup> with the potential to increase the distribution of infringing products.

The 2009 survey of trading standards authorities showed that 80% of those that responded (81 out of 104 respondents) revealed that investigations into the sale of infringing products via the internet were increasing.

**Auction sites and online marketplaces** are well used routes to market for IP criminals. The auction sites are used to market, sell and distribute counterfeit products, including digital files, CDs and DVDs.

Recent years have seen a growth in more established market places, such as Amazon and eBay. Currently there are over 90 UK based auction websites. The past year has seen action being taken to try and tackle this issue, in particular through joint working with the auction sites.

The Internet Auction Working Group is led and chaired by trading standards. It is looking at ways to harmonise the approach to removing sites that sell infringing products, with the aim of reducing the burden on enforcement and agencies brand holders. The group is

also looking to introduce a code of practice for auction sites.

Another key area is where **dedicated websites have been set up to sell specific fake or pirated content**. In some instances items are clearly advertised as fake or their price might indicate that they are not legitimate products. In other instances the products are represented as genuine articles. Customers can often be unaware that their legal rights for redress – if goods are poor quality or faulty or never arrive – may be limited if they are not buying genuine products. The potential e-crime and identity theft risks they are exposing themselves to are also not widely understood.

A number of actions were taken against such sites in the year, including the work of the Metropolitan Police's e-crime unit in December 2009 which resulted in over 1,200 sites being blocked at the domain level in a joint operation with nominet the UK domain registry (this case is discussed in Part A of Chapter 2).

Criminal activity through **P2P file sharing sites**, for example by running or hosting a site, continues to be an area of serious risk.

Much of the discussion and debate regarding P2P in 2009/10 has centred on the civil infringement issues resulting from the large volumes of consumers who are making use of P2P technology to download unlawfully copied content. These activities do not typically fall into the category of IP crime although civil law breaches may be occurring.

Action to tackle these civil infringement issues was taken as part of the Digital Economy Act 2010 which received Royal Assent in April 2010. The Act does not address issues relating to the criminal activity of those running these sites which is dealt with through existing laws, including the Copyright, Designs and Patents Act (as amended) (CDPA 1988) and the Fraud Act 2006.

#### The Oink filesharing case

The Oink website operated from a flat in Middlesbrough from 2004 until it was closed down in a police raid in October 2007. In that time Oink facilitated the downloading of 21 million music files and attracted over 200,000 members. The site did not actually host unlawfully copied material, but allowed active members to find other people on the web who would share files – enabling users to get access to music files without considering whether the source was legitimate.

<sup>15</sup>[OECD (2008) *The Economic Impact of counterfeiting & Piracy*]

In December 2008, four former members of Oink were successfully prosecuted for copyright infringement offences at Teesside Crown Court. Three were sentenced to community service totalling 330 hours and one was fined £500.

On 15 January 2009, an individual who ran the Oink website was found not guilty of conspiracy to defraud at Teesside Crown Court. Teesside Crown Court was told that the individual had received almost £200,000 in donations, amounting to almost £11,000 a month from people using his website.

### Pirate Bay

The issue of illicit filesharing is not confined to the UK. February and March 2009 saw the landmark case of the 'Pirate Bay' a website that held links to torrent files that often contained copyright protected material. Although the site did not host content itself, the case resulted in four Swedish men being found guilty of copyright offences. They were fined £2.4million and sentenced to a year each in prison. The case is currently under appeal.

**Streaming sites** are a concern to the audio-visual sector as a whole but raise particular concerns for those involved in audio visual rights around sporting events. It is the "live" nature of the sporting event which provides the greatest appeal to a prospective audience. As such it is at risk of piracy by means of live streaming on the internet.

Tackling streaming sites raises practical issues – due to the global nature of the internet and the ability of infringers to set up new sites quickly and with a degree of anonymity. Many sites are based overseas which can pose further problems in shutting them down and pursuing legal action. According to the "Background Report on Digital Piracy of Sporting Events"<sup>16</sup> prepared for the OECD by the Sports Rights Owners Coalition (SROC)<sup>17</sup>, live streaming software was developed in China and many "distributor sites" are based in China.

**IP crime within the workplace** - Working environments can represent a lucrative potential market place for sales of counterfeit and pirated goods.

25% of respondents (27 out of 104) to the IPO's 2009 survey of trading standards reported that they had investigated the sale of IP infringing goods in the workplace during the course of the year.

In some instances the person engaged in criminal activity may be an employee – who is using their employer's resources to create, distribute and publicise their activities. In other instances people may be coming into the workplace purely for the purpose of selling these goods. In 2008 the IP Crime Group published research into IP crime in the workplace<sup>18</sup>. The majority of employers (73%) questioned in the research claimed that they did not know whether sales were taking place and therefore would be unable to take action.

### ***Distribution: routes of entry to the UK and domestic production***

Counterfeiting and piracy are global trades – with imported goods making up a substantial proportion of the quantity of fake and pirated goods found in the UK market. The role of customs authorities in helping to tackle IP crime is clear – in particular through their work at air, sea and land borders. The World Customs Organization estimates that 90% of all seizures of counterfeit goods in Europe are made by Customs, and more than 70% globally.<sup>19</sup>

According to the European Commission's report on IP Rights Enforcement in July 2009 (see footnote 4), China was the main source country for IPR infringing articles coming into the EU in 2008 with 54% of the total amount. However, in certain product categories, other countries were the main source, notably Indonesia for foodstuff and beverages, the United Arab Emirates for cigarettes and India for medicines.

CDs/DVDs was the top category in the Commission's report with a total of 79 million articles detained, which accounted for 44% of the entire amount followed by cigarettes (23%) and clothing and accessories (10%). Products potentially dangerous to the health and safety of European consumers accounted for a total of 20 million items (11%) of food and beverages, personal care articles, medicines and toys.

A wide range of initiatives are in operation - domestically, at EU level and internationally - with customs officers working with rights holders to address border control issues for IP rights.

<sup>16</sup> <http://sroc.info/resources/OECD%20Sports%20Piracy%20CaseStudy%20-%20FINAL%20VERSION%20-%20NOVEMBER%202008.pdf>

<sup>17</sup> The Sports Rights Owners Coalition ("SROC") is an informal group of representatives of international and national sports bodies with a particular focus on rights issues. <http://sroc.info/index.html>

<sup>18</sup> <http://www.ipo.gov.uk/report-workplaceresearch.pdf>

<sup>19</sup> [http://www.wcoomd.org/wce06factsheet\\_valelearningoncustomsvaluation\\_epipr.htm](http://www.wcoomd.org/wce06factsheet_valelearningoncustomsvaluation_epipr.htm)

### Case study: Chinese smuggling ring smashed

A North London tobacco smuggling gang who evaded £2.6 million in tax were jailed for a total of ten years in July 2009, following a successful undercover operation by HM Revenue & Customs (HMRC).

The three men and one woman played a pivotal role in the UK arm of an international tobacco smuggling plot, concentrating their efforts on exploiting the UK's fast parcel system. They illegally imported over 15 million counterfeit cigarettes and nearly 2.5 tonnes of hand rolling tobacco from China, in just 14 months. A further 336,000 counterfeit cigarettes were imported in containers through Southampton docks in December 2007 and Felixstowe docks in January 2008. The consignments had been described as 'chairs'.

Eddie Jones, Assistant Director for Criminal Investigation for HMRC, said: "This was a well planned and executed smuggling operation on an international scale. This type of serious organised crime has a devastating impact on local communities and the nation's economy. We will relentlessly pursue these gangs and disrupt their activities to ensure they serve their time behind bars. This form of crime often has links to drug smuggling, extortion and major fraud and impacts hard on local people and legitimate retailers. These smuggled tobacco products were all counterfeit and as with any fake product those buying them are potentially taking a serious health risk. They are unlicensed and unregulated and could contain any number of unknown substances and toxic chemicals."

The court heard how the crime gang organised the delivery and receipt of millions of tobacco products from China, mainly through the UK's largest post parcel depot in Coventry. Customs officers also seized 28,000 counterfeit Golden Virginia and cellophane pouches, hologram seals and heat sealers during the operation, which they intercepted at Heathrow airport. It is believed these were being used as part of a production line for hand rolling tobacco.

Three of the defendants were arrested on 28 April 2008 - Wei He GUAN, Hui Qing CHEN and Zhi Qiang WENG – following a surveillance operation by customs officers. Qing Ping XJE (the wife of Wei He GUAN) was arrested on 3 December 2008. All four were charged on 4 December 2008 and later pleaded guilty to conspiracy to contravene tobacco smuggling offences under the Customs and Excise Management Act 1979.

Not all pirate and counterfeit products that are introduced into the market are imported. Domestic production of fake and pirated products is an important issue. The past year has seen notable seizures involving the domestic manufacture of alcohol, tobacco and clothing as well as DVDs, CDs and vinyl records, some of which are highlighted in case studies in this report.

Often domestic production will take place in a hidden factory which operates from a rented office space, disused premises or a residential property. These 'factories' can pose real health and safety risks, both for those working within the factory and for the consumers who will ultimately purchase the products. The products will not have been subjected to normal safety testing procedures and will most likely have been produced in an unsafe and unhygienic environment.

### Case study on Operation Donets; Federation Against Copyright Theft

Operation Donets was a Federation Against Copyright Theft (FACT) led investigation looking at an organised crime gang which provided a 'one stop shop' supply service for other criminal gangs producing and selling counterfeit DVDs in London and the South East with international links. The operation began in early 2006 following interception of a parcel of metal pre-masters for industrial DVD replication machinery. This indicated the presence in the UK of an industrial replication plant, the first time such a plant had been identified in Western Europe.

Enquiries led to a warehouse in Harlow owned by Samrana Ltd, the main supplier, sustaining the production of counterfeit film product on a very large scale by criminal networks in London and the South East. The location of the industrial replication machinery was traced to a counterfeiting factory situated in industrial premises in Walthamstow, London.

Standing trial with the principles of Samrana was Xin Li, an illegal entrant to the UK who acted as a quartermaster/organiser for one of the criminal networks, who worked closely with Samrana. The organised crime groups they were supplying used a workforce of largely illegal Chinese immigrants who had been trafficked into the UK for this purpose. They were housed in 'factories' which ranged from industrial units to terraced houses. These factories were generally short term lets where the illegal immigrants lived and worked around the clock.

The factories were capable of producing hundreds of thousands of illegal copies per week of popular movies, with hundreds of different titles being produced. The organised crime groups were also highly active in the illegal distribution of pornographic material, including some content that would never be licensed in the UK. These pornographic DVDs were being sold on the streets alongside the mainstream movie titles.

Large sums of money were realised by both Samrana and the group organised by Xin Li, much of which left the UK. Enforcement agencies launched an investigation aimed at tracing and confiscating these criminal assets and identified about £3 million criminal benefit that had been accrued by the business. £106,000 in cash was located hidden in various locations throughout the home occupied by the family running Samrana and a further £24,000 was recovered from the bedroom occupied by Xin Li and his wife.

On 28 July 2009 the main subjects were sentenced to imprisonment ranging from two to six years for a number of offences including conspiracy to launder the proceeds of film piracy, conspiring to produce pirate DVDs contravening the Trade Marks Act 1994 (as amended) (TMA) and Copyright, Designs and Patents Act (CDPA)1988 and concealing the proceeds of crime.

## D. The wider impact of IP crime

Examinations of the economic impact of IP crime tend to focus on the impact that these crimes have on businesses directly involved in the creation of copyright protected works or branded goods or on the economy as a whole. The figures on the scope and scale of IP crime earlier in this chapter suggest that there is a notable impact on these businesses and on the economy as a whole. These costs arise not only from the loss of genuine sales but from other areas, such as the cost of monitoring and detection of IP crime and costs relating to legal action.

IP crime also affects wider business interests such as retailers who may lose business as a result of consumers purchasing goods through the informal economy. It can affect communities as well, through its impact on the prosperity of local businesses and through its links to other criminality and anti-social behaviour.

Consumers are also directly affected by IP crime, for example, by the poor quality of fake goods and by health and safety risks. Products like pharmaceuticals, alcohol and electrical products in particular can pose considerable risks for consumers as the fakes are of unknown quality and most of them will not meet required safety standards. Consumers can also be exposing themselves to the risk of identify theft and fraud by providing their bank details and other personal information to criminals running websites selling fake and pirated goods.

IP crime has an impact on tax revenues, and therefore on the provision of public services. One operation by HMRC officers against an illicit vodka still in Leicestershire in October 2009 resulted in the seizure of alcohol which would, if genuine, have yielded over £1 million in tax revenues.

Similarly, in July 2009 a large haul of counterfeit and smuggled cigarettes was seized on Merseyside by officers from HMRC. Almost 5 million cigarettes, with a street value in excess of £1 million were found along with illicit alcohol and counterfeit goods during a multi-agency check of premises in the Seaforth, Bootle and Netherton areas.

HMRC were joined by officers from Liverpool Trading Standards and Merseyside Police in the successful searches utilizing a trained tobacco detection dog. The cigarettes, a mixture of counterfeit, non-UK and well known brands from Europe and Asia were taken away for further tests and recycling. The evaded excise duty on the cigarettes would have equated to over £800,000

## E. Spotlight on health and safety

Counterfeiting and piracy expose consumers to a range of risks. Some of these are risks to personal health and wellbeing, such as those arising from unsafe electrical equipment, counterfeit alcohol containing methanol or fake toys with faulty parts that can break off and be a choking hazard for children. There are also risks to personal finance and security, through malware and computer viruses which can destroy files or aid identify theft.

Recent cases of seizures of counterfeit power tools, electronic components, tobacco and alcohol highlight the continued health and safety problem posed by counterfeit products. The variety of products that are subject to counterfeiting and piracy is quite broad.

### **Pharmaceuticals and healthcare products**

*Pharmaceuticals:* fake pharmaceuticals may contain dangerous or damaging ingredients or may simply be ineffective, due to missing ingredients or may contain the wrong quantities of ingredients. Increasing international trade of pharmaceuticals and sales via the world wide web has further facilitated the entry of counterfeit or substandard healthcare products into the supply chain. In 2006 this led to the World Health Organisation's (WHO) launch of the International Medical Products Anti-Counterfeiting Taskforce (IMPACT\*) which is now the main conduit for WHO's work against counterfeit medical products.<sup>20</sup>

The Medicines and Healthcare products Regulatory Agency (MHRA) differentiates between counterfeits being sold via unregulated routes over the internet and counterfeits that penetrate the legitimate supply chain such as products in high street pharmacies and hospitals etc, where instances are very rare.

In the UK, there have been 10 known cases of counterfeit medicines penetrating the dispensing chain/ legitimate UK supply chain to pharmacy and patient level since 2004 against a backdrop of approximately 850 million prescriptions written annually.

*Personal care products:* the quality of the product is unknown and is unlikely to meet required safety standards. In terms of goods such as toothpaste and skin care products risks emerge from the unknown nature of the ingredients and the production methods employed by the manufacturer. At best they may not perform as they are supposed to, at worst they may contain harmful or banned ingredients. In January 2010 the U.S. Food and Drug Administration (FDA) issued a warning about a counterfeit version of "Alli", which is an aid to weight-loss, being sold over the internet. The advice to consumers was not to use the drug as the counterfeit version did not contain the required ingredients and also contained varying amounts of a stimulant.

#### **Counterfeit 'Ped Eggs'**

A Dalston market trader who supplied and sold counterfeit JML (John Mills Limited) products has been fined £915.00.

Hackney Trading Standards Officers seized 152 Ped Eggs, 120 counterfeit Ez combs and 10 Nicer Dicers from the traders stall during November 2009. The trader was fined £200 for each offence and ordered to pay costs of £315.00.

<sup>20</sup> <http://www.who.int/impact/en/index.html>

<sup>21</sup> "Any information on known or suspected food fraud should be forwarded to the Food Standards Agency either by e-mail to [foodfraud@foodstandards.gsi.gov.uk](mailto:foodfraud@foodstandards.gsi.gov.uk) or by telephone on 0207 276 8077/8398. Further information can be found on the Agency's website at [www.food.gov.uk/foodfraud](http://www.food.gov.uk/foodfraud)"

### **Food and drink**

Clear spirits, such as vodka, are easier to produce than other spirits and are therefore more common. Counterfeit products are often made using industrial alcohol, like anti-freeze, which have had ingredients such as methanol added to them to render them unsuitable for consumption. These ingredients can be toxic if consumed in significant quantities.

On 20 May 2009, a joint raid involving trading standards, environmental health officers and HMRC, at a business park in the London Borough of Haringey, resulted in the seizure of 2,700 bottles of counterfeit Glen's vodka. There was strong evidence that large quantities of antifreeze screen wash, containing industrial alcohol, had been used in the manufacture of the counterfeit vodka.

The Food Standards Agency (FSA) operates a national food fraud database and encourages consumers, as well as local authorities, industry and other government departments, to notify them of known or suspected food fraud.<sup>21</sup> The database produces intelligence that can detect emerging patterns of fraudulent activity and is one of several resources available to assist local authority investigations into food fraud. Approximately 17% of all intelligence submitted relates to counterfeit food, almost all of which concerns counterfeit vodka. To a lesser extent, other alcoholic drinks including Champagne, whisky and gin are also known to have been counterfeited and found on sale.

### **Electrical and mechanical products and electrical components**

*Consumer electrical goods* such as mobile phone accessories, hair straighteners and games consoles are subjected to rigorous third party safety testing by the certification industry to ensure that they are robust and that public health is safeguarded. Counterfeit versions side-step these testing requirements which can have considerable consequences for the customer. In many instances the wiring is found to be unsafe which can lead to over-heating and create risks of fire and electrocution. Fake products will often bear fake certification marks leading consumers to believe that they are safe.

*Mechanical products* like power tools and car parts also represent considerable health risks to consumers due to the risk of malfunction or the lack of proper safety cut offs. The Serious and Organised Crime Agency (SOCA) regularly produce reports known as 'alerts' to provide industry sectors with information. In January 2010 SOCA issued such an alert to business sectors, the agricultural industry and rural communities warning of the increase in sales of counterfeit chainsaws, generators and other power tools by organised crime groups.

#### Carmarthenshire Trading Standards – mini moto dirt bikes

In December 2008 Carmarthenshire Trading Standards identified a trader who was selling a range of products including a supply of mini moto dirt bikes. A test purchase revealed that they were counterfeit. Following safety tests the bikes were found to be dangerous and failed to satisfy the essential health & safety requirements of the Supply of Machinery (Safety) Regulations 1992.

It was discovered that the trader was importing the goods direct from China. He was prosecuted by Carmarthenshire and received a fine and a PoCA confiscation order totalling £25,000.

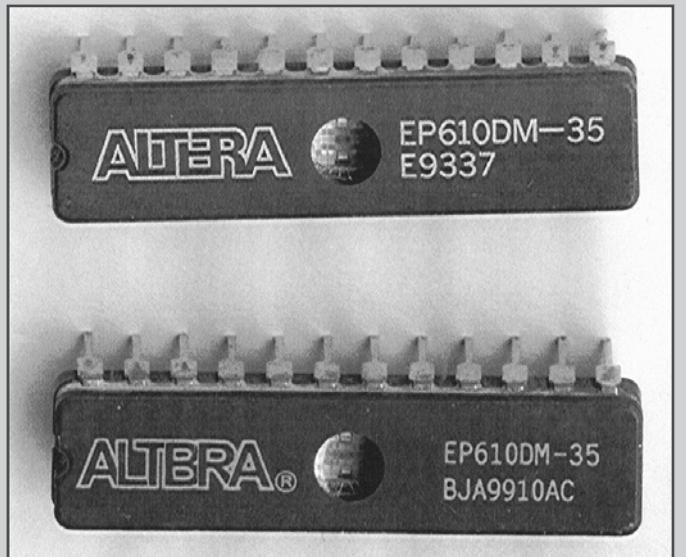
#### Electronic components

The dangers posed by counterfeit electrical and mechanical equipment are well known. However, there is less awareness about the threat arising from the unwitting use of counterfeit electrical and electronic components in genuine equipment.

The use of counterfeit components may impact on reliability - resulting in increased system down-time or even system failure. Where counterfeit components are used in safety critical applications, such as public transport or healthcare systems, this can be a considerable risk to health and safety.

Counterfeit electronic components are generally produced in one of two ways, either by fraudulently re-marking rejected components or components recovered from recycled equipment or by manufacturing new but sub-standard components.

This may result in the re-marking of 'non functioning' production line rejects or previously used and perhaps burnt-out components. In some instances different specification components are re-marked, for example, to pass off components designed for game consoles or that have been salvaged from old games consoles as industrial or military specification components.



This Altera component became obsolete in 1996 and is now very rare hence its *popularity* with counterfeiters. There were commercial and military versions of this part so they could be used in almost anything from household appliances to fighter planes. The version in the photo is a commercial version.

## F. Links to organised crime and other criminality

IP crime rarely happens in isolation. For criminals operating as part of a wider criminal gang IP crime is just part of their portfolio. It is, however, considered to be a lucrative area for organised crime as it provides easy financial gain and has generally been thought to be a low risk crime.

There are many IP cases where links to other criminal activities have been identified. These wider criminal activities include money laundering, people trafficking, loan sharking and the exploitation of children. Links with what are generally considered to be 'lower level' forms of criminality such as anti-social behaviour and benefit fraud can also be witnessed.

### Case study – Illegal hand rolling tobacco factory, East coast of England.

A domestic property came to the attention of investigators because the lights were on 24 hours a day. The semi-detached council house was being used as an illicit factory where the workers, aged between 12 - 70 years were packing hand rolling tobacco into 50g pouches. Fifty to sixty workers, in indeterminate shifts, were present over the 24 hour period, even though a family was living there. They were earning 50p for each counterfeit pouch they filled.

Counterfeit hand rolling tobacco not only undermines legitimate businesses but users of the product are exposed to a product of unknown and suspect quality. Experience shows potential quality issues can be due to poor quality tobacco; lack of knowledge of how to handle and treat it; unknown conditions of storage and visible mould has been seen on the product.

### Organised crime groups

The economic cost to the UK of organised crime (and efforts to combat it) is estimated to be over £20 billion per year in the 2009/10 UK Threat Assessment, which was published by the Home Office in March 2010.

Organised criminals that work together are called organised crime groups, though they're often known simply as crime gangs. The structure of organised crime groups varies. Typically they will comprise a solid core of individuals who will periodically bring in others either to be involved in the entire operation or to help in the delivery of specific tasks. The networks are often loose with membership and focus shifting over time. A key element of engagement in the 'core' is trust, with family relationships, ethnicity and shared experiences such as prison or referrals from trusted associates being key factors.

### Links between organised crime and IP crime

Organised crime groups are usually associated with gun and drug related crime. However, these groups engage in a wide range of crimes including, counterfeiting, piracy, immigration crime, fraud, money laundering, internet-related crime and other threats such as armed robbery, kidnap, and vehicle crime.

Although these groups engage in all aspects of IP crime, it is generally agreed that counterfeiting and piracy is relatively easy and inexpensive, providing exceptionally high profits. *"When a kilo of fake CDs fetches 50%*

<sup>22</sup>Barroso March 2008

<sup>23</sup>[http://archive.cabinetoffice.gov.uk/rogersreview/upload/assets/rogersreview/rogers\\_review\\_2007.pdf](http://archive.cabinetoffice.gov.uk/rogersreview/upload/assets/rogersreview/rogers_review_2007.pdf)

<sup>24</sup>Film Piracy, Organized Crime and Terrorism, RAND, 2009

*more on European markets than a kilo of cannabis leaf, no one should be surprised that organised crime is getting involved"* <sup>22</sup>.

The IPO's annual survey of trading standards for 2009/2010 found that 16% of respondents (17 respondents out of 104 respondents) had found a link to organised crime from investigations involved in IP crime related activities. The 2007 Rogers Review estimated that around 70% of the £1.3 billion generated by IP crime in the UK flowed back to organised crime.<sup>23</sup>

The IPO's survey also asked authorities to identify the links they had seen to wider criminality. Respondents identified a range of links. Benefit fraud was identified as the most common link with 48% of respondents identifying a link.

There are challenges that are faced in tackling the IP crime activities of organised crime groups. More open borders and increased international trade inevitably make it easier for counterfeit goods to flow across continents. Alongside this we have seen advances in technology which make it easier, quicker and safer for criminal groups to engage in the manufacture, sale and distribution of counterfeit and pirated products. Technological developments have also enabled IP criminals to improve the quality of the products they offer making it harder for enforcement, industry and consumers to differentiate them from genuine products.

Direct downloading of software, music and publications, assisted by the proliferation of filesharing networks, is one problem area with the global film industry seeing a dramatic rise in the manufacture and distribution of DVDs by Chinese organised crime groups.

### Film piracy and organised crime

A report entitled "Film Piracy, Organized Crime and Terrorism"<sup>24</sup> states that there is compelling evidence of a broad and continuing connection between film piracy and organised crime. The report was based on more than 2000 pages of primary source materials and 120 interviews with law enforcement and intelligence agents in 20 countries.

The research identified 17 organisations which were involved in film piracy. 14 of these were also involved in counterfeiting. The researchers then identified serious crimes that the group were also associated with, including people smuggling, prostitution and weapon trafficking. The following chart shows the results of the research:

Organised-crime group	Base Location	Film Piracy	Counterfeiting	Racketeering	Human Smuggling	Money Laundering / Illegal Money Transfer Service	Illegal gambling	Loan-Sharking	Narcotics trafficking	Prostitution	Weapon Trafficking	Contract Killing	Document Forgery Services
Big Circle Boys	Canada	x		x	x	x	x	x	x	x	x	x	x
Yi Ging	USA	x		x		x	x	x	x				x
Jah Organisation	USA	x	x			x							x
Cockle-picker gangmaster	England	x	x		x								
Lotus Trading Company	England	x	x		x								
Madrid Human smuggling ring	Spain	x			x								x
Camorra Mafia	Italy	x	x	x	x	x	x	x	x	x	x	x	x
Wo Shing Wo triad	Hong Kong	x	x	x	x	x	x	x	x	x	x	x	x
San Yee On triad	Hong Kong	x	x	x	x	x	x	x	x	x	x	x	x
Ang Bin Hoey triad	Malaysia	x	x	x	x	x	x	x	x	x	x	x	x
Barakat network	Paraguay	x	x	x		x	x		x		x		x
PIRA/RIRA	N. Ireland	x	x	x					x		x		
UDA/UFF/UVF	N. Ireland	x	x	x					x		x		
D-Company	Pakistan	x	x	x		x			x		x	x	
Tarantsev / Orehovsko-Medvedkovsky	Russia	x	x			x						x	
Los Ambulantes / Tepito	Mexico	x	x	x	x	x			x	x	x		x
Yamaguchi-gumi/Yakuzu	Japan	x	x	x	x	x	x	x	x	x	x	x	x

**Source; Film Piracy, Organized Crime and Terrorism, RAND, 2009**

In the past CDs, DVDs and other digital media were imported into the UK in bulk and were often produced in the Far East by organised, large-scale counterfeiting operations. However, they are now increasingly being manufactured in the UK using available technology such as personal computers with CD/DVD burners and industrial DVD pressing machines. Materials are imported into the UK, largely by UK-based South East Asian criminals who use legitimate companies as cover. Mainland Chinese organised crime groups are considered to be heavily involved in the distribution and sale of counterfeit DVDs in the UK, exploiting illegal immigrants to produce the discs and sell them on the street in the UK.

Organised crime groups are also reported to be actively involved in product counterfeiting e.g. clothing and footwear, luxury goods etc. Most counterfeit products in the UK are believed to be imported from the Far East, with China being the most significant source.

**Drugs and weapon**

In October 2009 police officers in Scotland seized counterfeit goods worth £2.5m at Barras Market, Glasgow, in an operation involving an 80-strong team of officers backed by police dogs. Officers reported that the illegal sale of counterfeit goods, including clothes, CDs and DVDs, was part of a network of serious and organised crime that was allegedly linked to drug gangs and violence. Small quantities of class B and C drugs and a weapon were also seized.<sup>25</sup>

Superintendent Val Thomson commenting on the counterfeit trade generally said “I certainly have evidence of some of the money from the trade in counterfeit goods going into drugs in the area, and that is something we are cracking down on.”

**Two arrested in Gloucestershire: drugs and counterfeiting equipment recovered**

Following intelligence supplied by the FACT, on 22nd February 2010 Gloucestershire Police and Gloucestershire Trading Standards executed a warrant at a house in Leonard Stanley. Computer equipment, DVD burners and several hundred counterfeit DVDs were seized along with a quantity of blank discs.

A 35-year-old man and a 29-year-old woman were arrested at the address by Gloucestershire Police on suspicion of possession of a controlled drug with intent to supply after a large amount of cannabis was also found.<sup>26</sup>

<sup>25</sup> <http://www.heraldscotland.com/news/home-news/counterfeit-goods-worth-2-5m-seized-in-market-raid-1.928413?localLinksEnabled=false>

<sup>26</sup> [http://www.fact-uk.org.uk/site/latest\\_news/index.htm](http://www.fact-uk.org.uk/site/latest_news/index.htm)

# Chapter 2: Responding to the challenges

## A. Coordinated response to IP crime

### Introduction

Over the past few years there has been an increased focus from industry, enforcement agencies and government on cooperation and coordination in the response to IP crime.<sup>27</sup> This continued in 2009/10 with strong evidence of increased coordination at both the strategic level and in the delivery of practical responses on the ground.

The Intellectual Property Office's (IPO) 2009/10 survey of trading standards authorities showed a considerable increase in instances of co-ordinated working by trading standards authorities – as shown by the tables and analysis contained in Chapter 3 of this Report. Of those that responded to the survey conducted in January 2010, over 85% (87 out of 104 respondents) had worked with other trading standards authorities and most had engaged in a coordinated effort with police during the course of their investigations.

At the strategic level, this focus on cooperation and coordination has enabled both the public and private sectors to build a clearer picture of the scope and scale of the problem and to identify and progress priorities. It has also provided a network for the dissemination of best practice and the sharing of experience and lessons learnt – through established forums such as the IPO's national IP Crime Group as well as through the development of informal networks and contacts.

At the operational level a coordinated approach has enabled enforcement agencies to make better use of resources and to focus on priority issues. The IPO Intelligence Hub which has provided direct support to enforcement agencies and industry through its collection, analysis and development of intelligence on IP crime, has seen a notable rise in engagement from trading standards departments and other parties seeking to share their intelligence and to draw upon the National IP Crime database (IPID) to inform their work. This growing focus has allowed everyone involved in the fight against IP crime to make increasing links between activities and individuals and has also contributed more directly in the building of a wider intelligence picture on criminality, including organised crime.

### Strategic level activity and policy initiatives

#### *IP Crime Group and its subgroups*

The IP Crime Group brings together government, industry and enforcement agencies to better coordinate the response to IP crime. The Group is run by the IPO which provides the Secretariat and is chaired by Deputy Chief Constable Giles York of Sussex Police. It has provided a forum for the identification of new and common issues and the sharing of information, expertise and best practice (within the Group and more widely) as well as work to raise awareness of the issue amongst enforcement agencies, SMEs and other key groups. It has also provided a forum to draw together wider strategic work in other areas – such as fraud and organised crime – to consider the connection to IP crime and to help ensure that a coherent picture is in place.

In the period 2009/10 the IP Crime Group's work focused on key projects which were designed to provide direct support to industry, businesses and enforcement agencies. These included the development of guides to help businesses tackle IP crime within the workplace and work to develop a more coordinated approach to awareness raising and training. Work in all of these areas was ongoing at the end of the period.

#### *Local Government Regulation and council trading standards service*

Local Government Regulation (LG Regulation) formerly LACORS is part of the Local Government Group. It promotes quality regulation to councils in the areas of trading standards, environmental protection, streetscene, licensing and gambling, food hygiene and standards, animal health and welfare, animal feed, health and safety and private sector housing. It offers comprehensive advice and guidance to councils throughout the UK and their partners, disseminating good practice and providing up-to-date information on policies and initiatives that affect local people and local services. Local Government Regulation lobbies on behalf of councils and ensure that legislation and government policy can be practically implemented. It facilitates an IP Focus Group that consists of representatives from every region in England, Wales and Scotland, who come together to discuss issues, share information and best practice.

<sup>27</sup> <http://www.ipo.gov.uk/ipcrimestrategy.pdf>

### *Serious and Organised Crime and the work of SOCA*

The “Organised Crime Control Strategy” sets out the UK’s law enforcement response to tackling organised crime. The Serious and Organised Crime Agency (SOCA) have a key role to play and delivery of this work is conducted through several programmes of activity aligned with the key threats and problem areas identified in the UK’s annual threat assessment. The 2009/10 UK Threat Assessment Report was published in October 2009 and identified IP crime as one of the areas of focus for SOCA.

SOCA’s work on tackling IP crime was initially led by Programme Board 17 and focused on increasing its knowledge in this crime area and on identifying potential methods for tackling counterfeiting and piracy at the national and international level. It also worked to identify long term strategic enforcement opportunities. Sitting underneath this was a Tactical Group, chaired by the City of London Police. The group, which was made up of government, industry and enforcement practitioners, engaged in identifying common areas for joint working, with a focus on effective information sharing and collaborative working.

In April 2010 as a result of changes brought about following the publication of “Extending our reach: a comprehensive approach to tackling organised crime” by the Home Office and Cabinet Office in July 2009 changes were made to these arrangements. SOCA’s work on IP crime was transferred to Programme 18 (Other Threats). SOCA has already begun working with key stakeholders, including the IPO Intelligence Hub with a view to building a full picture of the threat posed by IP crime.

### *Consumer Protection Policy (BIS and the OFT)*

Scambusters Teams have been in operation since 2007. They were set up to focus on larger scale consumer scams – working on a regional basis – and tackle many areas of criminal activity, including large scale organised counterfeiting operations. The trading standards service is delivered through more than 200 local authorities in England, Scotland and Wales. As trading standards officers are normally authorised to take action only within the boundaries of their own local authority, these regional teams provide a useful way of tackling cross border activities.<sup>28</sup>

Following the July 2009 white paper on consumer issues ‘A Better Deal for Consumers: Delivering Real Help Now and Change for the Future’ a number of new initiatives were launched which were of particular relevance to work on IP crime.

- a new ‘fighting fund’ was set up for nationally important trading standards cases relating to consumer policy issues including IP crime.
- enhancing the capabilities of the Office of Fair Trading (OFT) and Regional Trading Standards and Scambusters Team to tackle online rogue traders and other consumer protected issues and forging close links with the police.

The OFT has been taking forward work during the year to develop its long term national strategy for e-consumer protection. This strategy is due to be published by the end of 2010 and could help OFT, trading standards and other enforcement agencies, such as the police, to coordinate their activities even more effectively.

### *Coordination across government*

In recognition of the relevance of IP crime to a number of government departments, a new Inter-Ministerial Group on IP Enforcement was set up in 2009. The group was run by the IPO. It brought relevant Ministers from departments including the Home Office, the Department of Culture, Media and Sport, HM Treasury and the Department of Business, Innovation and Skills (BIS) together with stakeholders within the enforcement community with the aim of improving the coordination of the government’s response to IP crime at the highest level. The group’s remit was to discuss the challenges that were faced for enforcement and to explore possible areas for better joint working.

### *A joined up response ‘on the ground’*

There was a continued focus on joint working at the operational level during the year, with a notable increase in the volume of intelligence and information being shared amongst partners.

### *IPO Intelligence Hub*

The 2004 National IP Crime Strategy highlighted the variety of industry sectors, enforcement agencies and government departments sharing some responsibility for IP protection and or enforcement. It identified the need for better coordination and direction regarding the collection, analysis and use of intelligence to better understand and combat IP crime.

The IPO Intelligence (Hub) which manages the national IP crime Intelligence Database (IPID), was created to provide coordination and support using relevant legal gateways. This is a central resource for public and private sector investigators to utilise when taking forward investigations.

<sup>28</sup> <http://www.berr.gov.uk/policies/consumer-issues/enforcement-of-consumer-law/trading-standards/scambuster-teams>

The Hub's increased engagement with industry and enforcement following the signing of information sharing agreements saw a five fold increase in the receipt of intelligence in 2009/10 compared to the same period in 2008/09. During the same period, this coordinated approach allowed them to support 389 IP crime investigations.

Although it is not an enforcement agency, during the year 2009/10 the Hub expanded its role and remit, enabling it to provide further support to enforcement agencies and industry in tackling IP crime. In May 2009, it was designated a competent authority under Article 2(4) of the Europol Convention in respect of Europol business and it has been charged by SOCA and Europol to act as the UK's central point for collecting, analysing and disseminating IP crime intelligence. Also in 2009 the IPO were given designated authority under PoCA legislation so that their trained and accredited financial investigator could pursue money laundering investigations using the powers under the Proceeds of Crime Act 2002 (PoCA).

The Hub increased its staff levels during the year to respond to the growing demand for its services. It now has 10 dedicated staff with skills in intelligence collection, research and analysis as well as financial investigation.

The key areas of focus for work in 2009/10 were:

**National Markets Strategy** – The Hub facilitated the collection, analysis and dissemination of intelligence between trading standards and industry sectors in order to develop the intelligence picture relating to IP crime at markets, car boot sales and computer fairs. An Intelligence Requirement<sup>29</sup> was developed to support this multi agency approach.

**Industry Referrals** – In conjunction with the Welsh Police Regional Intelligence Unit, the Hub supported the optical digital media sector (film, music and games) to develop raw information into actionable intelligence. This was then used to support enforcement action by trading standards and police across the UK. Since April 2009 over 240 investigations have been instigated resulting in arrests and seizures of infringing products.

**Awareness raising** - these activities are discussed more in Part C of this Chapter but included a strong focus on intelligence gathering and on the potential role of the various tools under the Proceeds of Crime Act 2002 in tackling IP crime.

In addition the Hub supports other industry sectors to develop links with trading standards and police and offers them advice and assistance in developing their investigations.

*UK Border Agency and the IPO Intelligence Hub – partnership in practice*

In April 2009, the UK Border Agency (UKBA) placed a dedicated IP rights intelligence officer at Felixstowe container port with specific responsibility for collecting, analysing and developing intelligence relating to the importation of counterfeit goods by sea. With several million containers entering the UK each year this was seen as an important area of work.

New reporting and search mechanisms were developed which are designed to make better use of available intelligence to tackle those involved in this criminality. UKBA worked closely with key partners including ACG members, other enforcement agencies and the Hub in taking forward this work.

By maintaining daily contact with officers at the Felixstowe, Tilbury, Southampton and Liverpool container ports, the Hub assists in identifying suspected shipments of counterfeit goods and when appropriate coordinates targeted enforcement activity and liaison between UKBA, trading standards and/or police.

This partnership has led to large seizures of counterfeit products over the period. For example the search of commercial and residential premises in London by trading standards and the recovery of in excess of 10,000 counterfeit handbags and the detention of two 44ft containers of counterfeit 'Nike' trainers.

*Joint operations*

Enforcement agencies are working increasingly closely with each other and with industry anti-piracy units on operations. This is demonstrated by the results of the 2009/10 IPO survey of trading standards. 86% of respondents to the trading standards survey reported that they had partnered with other organisations in investigations. The results of that survey can be seen in Chapter 3 of this Report.

- **Bovingdon Market:** Hertfordshire Trading Standards and Hertfordshire Police have been working together on an ongoing project to tackle problems with counterfeit goods at key markets. In November 2009, more than 5,500 counterfeit CDs and DVDs were seized from three stalls at the market. A follow up operation in March 2010 targeted 11 market stalls where a wide variety of

<sup>29</sup>a means of collecting specific data to provide a clearer picture of the threat.

branded products were being sold. These included fakes of well known brands such as Nike, Adidas, D&G, Fred Perry, DKNY, Levi's, Gucci and Ed Hardy.

- **Counterfeit medicines:** November 2009 saw the 2<sup>nd</sup> International Internet Week of Action. The concept commenced in 2005, when the MHRA conducted coordinated activity across a number of UK addresses on a single day, targeting UK locations linked to websites illegally trading in medicines. The aim of the event was to maximise publicity through enforcement action with key messages and visual images warning customers not to take the risk of purchasing medicines over the internet. The 2<sup>nd</sup> international operation involved 25 countries. The operation was coordinated by Interpol, and overseen by an organising committee which included the MHRA. The focus of the operation was extended to include targeting postal hubs for imported parcels suspected to be supplying medicines illegally for website sale.

In the UK the project included joint participation in a nationwide TV and bill-board advertising campaign with Pfizer, patient groups and the Royal Pharmaceutical Society of Great Britain just before the operations.

UK operations targeted 10 websites and led to the arrest of three individuals and the seizure of 200,000 doses of illegal medicines worth approximately £600,000, 20 computers and £7,000 in cash. 10 other individuals were subject to further investigation, seven of the websites were taken down and one of them was modified to bring it into compliance. UKBA officers at Parcelforce's international mail centre in Coventry were involved in the operation and mounted a targeted operation focused on identifying suspected counterfeit pharmaceutical products being imported by post (assisted by MHRA enforcement officers). This joint project resulted in over 50 parcels being detained, which contained over 80,000 suspected counterfeit tablets.

The operation attracted a range of media coverage including the BBC One Show and various national newspapers including The Sun, The Mirror, The Guardian and The Times as well as local newspapers.

- **Consumer electricals:** A UK company, GHD, have been working with UKBA, transport company TNT and South Yorkshire Police to tackle market traders who are selling fake products. In May 2009 GHD had commenced a surveillance operation at Keepmoat market in Doncaster having previously

identified two stalls run by a family openly selling counterfeit GHD electrical products, handbags and cosmetics. In an apparently deliberate attempt to minimise risk of prosecution and detection, the family limited the number of counterfeit items available on the stall at any one time. Instead they would take orders for larger quantities to be collected at a later date once they had established a relationship with the buyer.

Working collaboratively with UKBA and TNT, South Yorkshire Police were able to execute a controlled delivery which resulted in the arrest of the husband and wife. This highlights the benefits of a coordinated approach to anti-counterfeiting across various stakeholders, not only by sharing intelligence but also by having procedures and agreements in place that allowed swift action to be taken at short notice. As a result of this action the market traders were charged with four trade mark offences as well as money laundering and fraud offences and are due to appear in court for sentencing in November 2010.

- **The games industry: update from ELSPA**  
During 2009 148 raids were carried out by trading standards departments and police in respect of games piracy and ELSPA's<sup>30</sup> IP Crime Unit seized over 90,000 master games discs or computer files. These were being used by criminals to make and sell copied games from homes, business premises, car boot sales and markets throughout the UK. It is impossible to determine how many copies were made using these discs and this figure is not the total number of discs seized during the year. It is quoted to show that criminals have largely changed their method of operating and usually "burn discs to order" rather than keep large stocks of illegal products.

In addition thousands of copied or counterfeit games were seized by Customs at various points of entry. One Chinese company trying to import goods into the UK had over 110,000 copied games seized over a period of time, along with 150 counterfeit games consoles that included unsafe and dangerous charging units. 13 people received sentences of imprisonment for trade mark and copyright offences in respect of video games.

2009 also saw a number of actions taken under section 296ZB of the Copyright, Designs and Patents Act 1988 which relates to devices for the circumvention of protection measures (so called

<sup>30</sup> The UK Interactive Entertainment Association operating as ELSPA is the UK's leading videogames trade body. The Entertainment and Leisure Software Publishers Association (ELSPA) includes almost all major companies involved with the publishing and development of videogames in this country. <http://www.elspa.com/>

“chipping” offences). In 2009 over 40 raids were carried out with over 100,000 circumvention devices of all types being seized as well as over 500 games consoles. Many of the offenders were found to be offering ‘while you wait’ console modifications at computer fairs throughout the UK and on one occasion, a ‘home visit’ chipping service was being offered.

- **Premier League and police/trading standards:**

A number of counterfeit football shirts were recovered from a van, which sparked an investigation to identify the supplier of the football shirts. A number of enquiries were carried out by the Premier League, which identified an address in London. A search warrant was obtained and a raid was carried out on 17 November 2009. Approximately 3,000 shirts were seized along with computers and other documentary evidence.

In another case the Premier League’s IP Crime Unit became aware of quantities of miniature novelty boxing gloves, beginning to appear in the market place, bearing unauthorised trade marks of some football clubs. Enquiries were made to identify the supplier of the gloves, which included liaising with bona fide licensees of football merchandise. These revealed that a significant number of the gloves were being distributed by a company based in the UK. Trading standards carried out a raid at an address on 24 December 2009 and 6,000 pairs of the infringing boxing gloves were recovered (valued at £30,000).

- **Film – Major Bollywood Gang Busted**

In April 2009 a total of 40,000 illegally burned DVDs worth more than £340,000 were seized in Leicestershire following a 2 month investigation by FACT, police, trading standards and the BPI.

The investigation was prompted by complaints from local shoppers about poor quality DVDs being sold in local shops and markets, many of which were being sold before their scheduled release date. Three houses which were being used as factories were raided and the haul included 60 DVD burners and 80,000 DVDs as well as blank discs, printers and computers. The scale of the production line was considerable with an estimated output of around 8,000 units per week. The investigations led to a single family with two of the family being arrested.

<sup>31</sup> [http://europa.eu/index\\_en.htm](http://europa.eu/index_en.htm)

## B. Innovation and new initiatives

A variety of new initiatives and activities have been seen during the year reflecting emerging new threats, new forms of criminal behaviour and the growing expertise of those engaged in tackling IP crime.

Domestically industry, enforcement and government organisations have become increasingly innovative in identifying new initiatives and driving them forward. This chapter aims to highlight a number of new projects and initiatives that have been taken forward over the past year, in particular focusing on initiatives linked to health and safety, business and community action and online activity.

2009/10 has also seen important innovations at the international level, including the launch of the new EU Observatory on Counterfeiting and Piracy<sup>31</sup> and the United Nations’ work on supply chain security.

### *IP Crime and Health & Safety*

#### *Tobacco*

Illicit tobacco is acknowledged to be a serious problem. As well as the health and safety risks and economic impact of fake goods illicit tobacco makes it harder to police the age restrictions on smoking and makes smoking more affordable.

On 1 February 2010 a new Tobacco Control Strategy for England, “A smokefree future” was published by the Department of Health. Under the strategy, HMRC, local authorities, the NHS, police and businesses would all continue to play an important role in tackling the domestic trade in illicit tobacco (which includes counterfeit as well as non-duty paid product).

**North of England Tobacco Control Strategy:** During 2009/10 Smokefree North West, FreshSmoke Free North East and Smokefree Yorkshire and the Humber have been working together, alongside stakeholders including HMRC, regional trading standards groups and the police, to develop a world first pilot programme [www.illicittobaconorth.org](http://www.illicittobaconorth.org). The pilot programme set out to address the challenges of illicit tobacco across the three regions through eight key areas of activity, including enhanced enforcement action, marketing campaigns and direct engagement with communities where illicit tobacco is widely available.

A 2009 survey for Trading Standards North West (a regional group) interviewed 13,902 young people in the region and showed that illicit tobacco is a significant source for young people. Of the 14 to 17 year olds questioned, 22% said they were smokers. 19% said they bought from street sellers, vans, neighbours or private houses. 60% had bought packs with health warnings in a foreign language. Up to 50% said they had bought counterfeit cigarettes.<sup>32</sup>

In 2009, Warrington Council delivered a series of training courses for police and police community support officers, youth workers; drug and alcohol teams, health professionals, stop smoking service advisors, environmental health officers and enforcement officers. The training was designed to raise awareness and understanding of illicit tobacco and included an overview of data and local information on access to and supply of illicit tobacco and the benefits of cooperative working to deliver on tobacco control.

As a result of the support from Smokefree North West, in March 2010, Trading Standards North West (TSNW) set up a specialist TSNW Illicit Tobacco Team, consisting of a manager, two enforcement officers supported by an intelligence officer, to combat the sales of illegal tobacco across the region. This team will develop effective intelligence gathering in order to identify and target hot spots, and provide extra enforcement capacity to local trading standards to help tackle large scale criminal networks engaged in the distribution and sale of illegal tobacco.

Joint working between Yorkshire and Humber's Cheap and Illicit Tobacco Investigator, trading standards officers from West Yorkshire, Rotherham and Barnsley, HMRC and the police led to a successful operation in September 2009 (Operation Apus 2<sup>33</sup>), in which four people were arrested for being in possession of suspected counterfeit cigarettes and hand rolling tobacco. Three of those arrested were suspected to be illegal immigrants. Approximately 25,000 counterfeit cigarettes were seized and approximately 80 kg of illicit leaf tobacco along with a quantity of boxes of non UK duty paid cigarettes which were suspected to be from an illegal shipment of 21 million cigarettes. The police also seized thousands of pounds in cash on suspicion that the money was connected with the proceeds of crime.

In the North East Customs officers and local trading standards working together carried out joint raids on retail premises in the south Tyneside area where 12,200 illegal cigarettes, 4,000 grammes of illegal hand rolling tobacco and a large quantity of suspect counterfeit DVDs and CDs were seized.

#### Wider action on tobacco – case studies

**Scotland:** in December 2009 customs officers used packaging-scanning technology to seize 92,000 counterfeit and smuggled cigarettes in a four-day operation across central Scotland.

HMRC officers, supported by police from Fife, Lothian and Borders and Strathclyde, used hand-held scanning technology to identify genuine cigarette packaging by detecting "covert marketing invisible to the naked eye." The raids on three markets, 55 business premises and 34 homes, resulted in the seizure of 91,952 illegal cigarettes and 28.6kg of tobacco.

The April-June 2009 news report from **Lewisham Trading Standards** highlighted a significant amount of counterfeit "Golden Virginia" hand-rolling tobacco was seized from itinerant sellers who were targeting customers at pubs and betting shops, as well as approaching people on the street. The tobacco pouches were labeled with German health warnings, giving customers the impression that the tobacco was imported from the continent but the tobacco content was believed to be imported from Asia and originally destined for processing into Chinese cigarettes.<sup>34</sup>

#### *Electrical components - Spotlight on the UK Electronics Alliance*

Counterfeit electrical components pose a serious risk to health and safety. During 2009/10 the UK Electronics Alliance (UKEA)<sup>35</sup> took an increasingly active role in helping to coordinate activity on behalf of the UK electronics sector in a number of ways.

This included liaising with overseas organisations, particularly in the USA and Europe, which are addressing the issue by regulation and by increasing security in the supply chain. The UKEA provided assistance to the International Electrotechnical Committee in the development of a globally recognised international standard for the management of counterfeit components in the supply chain and has also been working with the Product & Image Security Foundation,

<sup>32</sup> [http://www.lancashire.gov.uk/corporate/news/press\\_releases/y/m/release.asp?id=201001&r=PR10/00](http://www.lancashire.gov.uk/corporate/news/press_releases/y/m/release.asp?id=201001&r=PR10/00)

<sup>33</sup> [http://www.illicittobaccoonorth.org/FileUploads/Apus\\_2\\_Case\\_Study.pdf](http://www.illicittobaccoonorth.org/FileUploads/Apus_2_Case_Study.pdf)

<sup>34</sup> <http://www.lewisham.gov.uk/NewsAndEvents/News/NewsArchive/AprilJune2009/CounterfeitTobaccoWarning.htm>

<sup>35</sup> The UK Electronics Alliance is a consortium of the UK's leading electronics industry trade associations with a combined membership of over 1,500 UK companies, which acts as a two-way communication channel between members and Government and acts in a coordinating role on key issues affecting the UK electronics sector.

the forum for security labelling, packaging and marking suppliers, to promote the integration of security systems into electronic components.

UKEA have also been involved in a range of awareness and training initiatives, which included:

- working with the IPO, HMRC and other relevant departments on the development of joint initiatives including the provision of specialist training for selected border inspection personnel
- running a series of awareness seminars, many of which were free to attend
- working with the UK business media and other organisations to raise awareness of, and promote best practice for managing the problem. For example, during 2009/10 the British Electrotechnical and Allied Manufacturers Association (BEAMA), the Electrical Distributors Association and several other industry associations have been working together in the fight against counterfeit and non-complying electrical products. One particular initiative was the poster campaign “Counterfeit Kills, be safe – don’t electrocute your customers”. Wholesalers were encouraged to display these messages to encourage electrical contractors to buy from reputable wholesalers and to report counterfeit products.
- Developing and managing a new website, [www.anticounterfeitingforum.org.uk](http://www.anticounterfeitingforum.org.uk) provides a directory of online resources. These resources include articles, technical papers, and reports as well as presentations and information on best practice, and indexes of reliable sources of components. The website features an online forum enabling companies to share information on known counterfeit components. Since its launch in August 2009 details of over 400 counterfeit parts have been uploaded to the website.

One of the UKEA's members, the Component Obsolescence Group recently updated and re-published a comprehensive booklet on the subject, “the Counterfeit Electronic Components Minefield”. A sample of the booklet is available to download at <http://www.cog.org.uk/PDF/booklets/Counterfeit%20Minefield%20Issue%201%20November%202008%20%28sample%29.pdf>

## **Business & Community Actions**

### *The Real Deal Campaign: Working Together for Fake-Free Markets*

The Real Deal campaign was launched in June 2009. It was initiated and funded throughout 2009 by the Industry Trust for IP Awareness and sits within the National Markets Group. The campaign brings together trading standards, other enforcement agencies, copyright and trade mark owners, industry groups, market operators and traders to help create markets free of fake goods and illicit traders.

Now in its second year of operation, funding for the campaign has been extended through support from the following industry groups, alongside the Industry Trust for IP Awareness: the Anti-Counterfeiting Group (ACG), Business Acton to Stop Counterfeiting And Piracy (BASCAP), the British Recorded Music Industry (BPI), the Entertainment and Leisure Software Publishers Association (ELSPA) and the Publishers Licensing Society (PLS).

The heart of the campaign has been to get market organisers, trading standards and industry to sign up to, and abide by, a national markets’ charter, containing broad principles which focus on working together and sharing information. The national charter is underpinned by local codes of practice which address more detailed operational requirements as defined by individual trading standards services and agreed with market operators. The campaign has been supported and endorsed by the Alliance Against IP Theft, the Federation Against Copyright Theft (FACT), the National Association of British Market Operators, the Retail Markets Alliance, the Local Government Regulation (formerly LACORS), the Local Government Association (LGA), the Welsh Local Government Association, the Trading Standards Institute (TSI), Crimestoppers, Consumer Direct and the IPO.

By the end of 2009/10, 61 markets were covered by the Real Deal charter across 16 local authorities including: Manchester, Liverpool, Walsall, East Sussex, Kent, Warrington, Bury, Derbyshire, Northamptonshire, Calderdale, Tower Hamlets and Wandsworth. In addition, around 65 local authorities had expressed interest in, or were actively working towards, adopting the charter, either alongside their existing local market code of practice or with a new code of practice based on the template offered as part of the Real Deal resources. This work will continue in 2010/11.

Information on the campaign is at [www.realdealmarkets.co.uk](http://www.realdealmarkets.co.uk)

### Real Deal Conference, London, March 2010

A conference was held on 26 March in London and was the first event to bring together market operators, policy makers, industry representatives, councils, trading standards, police and HMRC officers. The aim was to discuss practical ways of combating the problem of counterfeiting in UK markets.

Bryan Lewin, previously lead officer for IP at TSI, chaired the conference and presented an overview of the legal landscape. The conference had a wide range of speakers from industry and enforcement, including:

- Lavinia Carey, Chair of the Alliance Against IP Theft who outlined the scale of the problem, saying that 25% of fake goods sales takes place at markets and car boot sales.
- John McHale, Principal Trading Standards Officer with Liverpool City Council, who highlighted how the problem of counterfeit sales at markets in Liverpool had been tackled in joint operations with Merseyside Police and HMRC officers and how the Real Deal principles had been embraced by Group Geraud, the company contracted to operate the city's markets.
- Inspector Barbra Campbell from Hertfordshire Police who explained how intelligence gathering tools such as Automatic Number Plate Recognition (ANPR) can be used effectively to track and intercept illicit traders, her message was that "picking up small traders can lead to bigger fish."
- Liz Bales, Director General of the Industry Trust for IP Awareness, and Patricia Lennon, the Real Deal Campaign Coordinator, who presented an update on the campaign, highlighting the increasing number of local authorities that had signed up to the national markets' charter.
- Ruth Orchard, Director General of the ACG who presented a new guide to brand identification, which is a valuable resource for trading standards to use in assisting market operators, and which is available from the ACG.

Copies of the speakers' presentations are available at <http://www.realdealmarkets.co.uk/news5.shtml>

### Tackling IP Crime in the workplace

Suffolk Trading Standards Service's 'Fake-Free Suffolk' campaign ran throughout 2008 and 2009 to educate businesses and consumers and to take direct action against itinerant sellers with fast-track prosecutions.<sup>36</sup>

The campaign focused on areas where there had been a high rate of complaints about such goods. Visits were made to all industrial estates and building sites to hand out leaflets on IP crime and local security companies patrolling building sites were also approached. Targeted follow-up visits were also made in some cases.

Information received from the sites included concerns that door to door traders were disrupting their businesses as employees stopped work to buy DVDs and goods. There was also a general lack of appreciation of the impact of IP crime on the local community – i.e. loss of business and a lack of understanding regarding employer liability. The focus of concern for many businesses was people coming to their premises to sell goods rather than employees selling or the company buying illegal software.

Feedback from the campaign identified improvements that could be made to future activities, including a greater focus on practical advice. These comments were fed into the IPO's IP Crime Group's subgroup which has been looking at business guides on IP crime in the workplace.

Investigations were also informed by the project. Reports from one building site about the presence of a door to door DVD seller led to their subsequent arrest and the imposition of a four month custodial sentence.

Suffolk operated a fast track policy on prosecutions and put in place a toolkit to support this process. The toolkit included a draft "information",<sup>37</sup> case law for use in court and a draft statement of facts outlining what areas needed to be covered in court. Practical support was also provided to officers dealing with the case – with team members in the office carrying out necessary checks like the British Board of Film Classification checks once the officer had called them to inform them of titles etc. Trading Standards Officers represented Suffolk Trading Standards at subsequent magistrate's court hearings rather than requiring attendance from the legal department at short notice. Systems were also put in place to record feedback from hearings to ensure lessons were learnt for future cases.

<sup>36</sup> <http://www.suffolk.gov.uk/NR/rdonlyres/EF9FB706-716F-40CD-BB2B-BE82C7FE9F1B/0/ServicePlan200911v2.pdf>

<sup>37</sup> This is part of the legal process ie 'an information' is a criminal charge

### Case Study: Lancashire T.S. tackle IP Crime before it happens using powers under Enterprise Act 2002!

Lancashire Trading Standards have started to make use of the Enterprise Act 2002 to assist them with tackling the behaviour of criminals.

An example of this is the action taken against a serial counterfeiter for issues within the Lancashire area but he was actually operating from a market outside of Lancashire selling counterfeit DVDs etc on a weekly basis. Although attempts were made by him to evade the authorities each week enforcement action would be taken and his goods seized. By using the Enterprise Act 2002 the authority were able to obtain an assurance that he would not commit offences covering the Trade Marks Act 1994 (TMA), the Copyright, Designs and Patents Act 1988 (CDPA) and Consumer Protection from Unfair Trading Regulations 2008. This required him to:

- not sell, hire, offer or expose for sale, or distribute counterfeit goods bearing a registered trademark without the permission of the trade mark holder, or possess counterfeit goods for any of those purposes.
- not make, import, possess, sell, exhibit or distribute articles in the course of a business which are infringing copies of copyright works, without licence of the copyright holder.
- not engage in a practice, namely the sale of counterfeit goods, which misleads or is likely to mislead through the information it contains, or its deceptive presentation, in relation to a product marketed in a way likely to create confusion with other products, trade marks and distinguishing marks of a competitor.

Lancashire Trading Standards report that so far this course of action has been successful. The defendant has not returned to the market and has not re-offended.

#### *Consumer outreach and engagement*

Initiatives aimed at raising awareness amongst consumers vary in approach, from focusing on the health and safety risks of fake and pirated products, to its links to wider criminality or its impact on national and local economies.

Consumers can also play an important role in helping industry, enforcement agencies and others such as Crimestoppers to tackle the problems posed by counterfeiting and piracy. There are many ways in which people are trying to engage consumers in this work and a number of initiatives in 2009/10 were focussed on getting consumers to play their part.

**Microsoft:** Through its website, Microsoft has been working to inform consumers about the risk of buying counterfeit products and the unwanted problems that counterfeits can bring (including the lack of after-sales support as well as viruses, malware and trojans). They have provided a wide variety of information for consumers, including advice on how to tell if software is genuine and tips on how to shop for software safely. These tips included advice on where to buy software, certificates of authenticity and how to activate products. Microsoft also set up a 'rogues gallery' highlighting examples of counterfeit products and the latest scams. Alongside this they have been working to encourage consumers to actively report piracy (including games piracy), through their web-based reporting system. This system also provides clear information about what would happen after a report has been made to try and reassure the consumer about the implications of their actions.<sup>38</sup>

Microsoft also provide direct support to law enforcement by participating in regular UK-wide "risk of counterfeit" educational sessions, providing forensic analysis of counterfeit products and accompanying witness statements, and by staffing a dedicated hotline for law enforcement queries.

**South Tyneside Council's "Don't Deal with Snidey Sidney" DVD Campaign:** In 2009, South Tyneside Trading Standards launched a new initiative aimed at teenagers. It was primarily focussed on DVDs, to educate and encourage them to use legitimate products.

The focus of the project was the development of a film highlighting the issue of counterfeiting and its impact on the local economy, the potential health risks and its links to more serious organised crime. The film was designed to draw in the audience, using clever scripts and comedy to entertain and educate. The film was launched at a "Film Premiere" style event on World Anti Counterfeiting Day, in June 2009 which involved elected members, police, industry and government. Lesson plans were developed to support the DVD and special screenings were targeted at local community groups and local businesses.

<sup>38</sup> <http://www.microsoft.com/uk/licensing/homeuser/software-piracy.msp>

This project has continued into 2010/11 and South Tyneside Council have been looking at a possible roll-out through new media channels, including social networking and hosting sites as well as potential new avenues within the school environment.

**Spotcounterfeits.co.uk:** SpotCounterfeits<sup>39</sup> is a website that provides a reference point for help in identifying fakes and counterfeits. The articles are written by experts who have experience or an interest in this area.

### **Tackling IP crime online**

During the year there have been a number of new initiatives relating to the specific problem of online IP crime.

This growing focus on online activities is reflected in the results of the IPO's 2009/10 survey of trading standards where over 95% of the authorities that responded to the questionnaire said that they had carried out investigations using the internet.

#### *Working with nominet – the UK domain name registry*

The online environment has presented new challenges for enforcement agencies. It has also brought in new players who are working towards tackling IP crime, like nominet (the UK domain name registry).

In December 2009, as part of Operation Papworth, the Metropolitan Police's Central e-Crime Unit (PCeU) took down 1,219 scam websites. These websites were run by organised criminal networks and were targeting popular designer items, including clothing, footwear, electrical goods and jewellery including well known brands such as Ugg Australia Boots, ghd, Tiffany & Co and Links of London. These goods were being advertised as genuine articles but consumers either received fake products or they received no products at all.

Intelligence showed that the vast majority of the sites were registered from Asia, despite their UK domain names, and that most of them had been using false or misleading details. This had made it extremely difficult for consumers to complain about poor quality, counterfeited items or goods not received. It was also making it difficult for trading standards or other law enforcement agencies to take action.

PCeU launched an operation targeted at criminal misuse of the UK domain name system. Working with Consumer Direct, trading standards, the Office of Fair Trading (OFT) and manufacturers they identified a large number of fraudulent web sites. Once these sites had been identified they worked with nominet - the body responsible for UK domain name registrations to de-register 1,219 website domain names and to prevent their subsequent re-registration.

The OFT continued to work with PCeU throughout the rest of the period to support the gathering of intelligence and to progress enforcement activity within the UK. This work will continue into 2010/11.

#### *BPI Activity in 2009*

Infringing files found online	959,788
Major uploader investigations	16
Topsites taken offline	2*
Release groups dismantled	2
Direct Connect Hubs	Down to 44 from 150

*\*these are powerful servers that are used to store pre-released music before it is distributed.*

#### *The Publishers' Association's Copyright Infringement Portal*

The Publishers Association (PA) launched a new Copyright Infringement Portal (the Portal) in March 2009 which targets websites offering infringing copies of books and other written works for free download or for sharing via P2P networks. Since its launch the Portal has become a core tool in the fight against online piracy for 50 publishing companies – issuing almost 3,500 takedown notices covering over 6,100 infringing URLs.<sup>40</sup> It allows the industry to track the pattern and scale of online piracy in a new way.

<sup>39</sup> <http://www.spotcounterfeits.co.uk>

<sup>40</sup> Stands for "Uniform Resource Locator." A URL is the address of a specific Web site or file on the Internet.

Name	Notices Issued	URLs Taken Down
Rapidshare	1138	42%
Scribd	1089	99%
Webazilla	521	84%
DE-Keyweb-III	321	74%
LeaseWeb	284	51%
FDC servers	211	19%
Advanced Hosters	198	87%
LeaseWeb BV	149	12%
Google Blogger	148	79%
Fast Internet Web & Server Hosting	116	37%

At the end of 2009 the Portal had recorded an average success rate of 63% - with 3,491 of take down notices acted upon by the host site. The Publishers' Association report that there was a notable variation in responses to take down notices.

#### Case study

In August 2009 confiscation orders totalling over £23,000 were made out to James O'Donnell and Reza Fazell by Snaresbrook Crown Court following their conviction in January 2009 for trade mark offences. The pair received sentences of 51 weeks imprisonment which were suspended for two years and a community order for 150 hours of unpaid work. These actions related to investigations stretching back to 2004/2005 when Worcestershire Trading Standards raised concerns with Essex Trading Standards about an eBay account that was believed to be based in Essex which was selling counterfeit goods.

#### European and international initiatives

The new **EU Observatory on Counterfeiting and Piracy** (the Observatory) was launched in April 2009.<sup>41</sup> Its aim is to enhance cooperation across the European (EU) and to assist the fight against fake goods and copyright piracy. The Observatory provides a platform for member states and stakeholders to exchange ideas and expertise. It is focused on improving the collection and use of information and data, promoting best practice amongst public authorities, spreading successful private sector strategies and raising public awareness.

<sup>41</sup> <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/497&format=HTML&aged=0&language=EN&guiLanguage=en> (accessed 25.02.10)

The Observatory will take forward work to map the problems of IP crime across the European Union and will report annually on the scope and scale of IP crime and efforts to tackle it. The work programme of the Observatory was still being developed at the end of 2009/10. During the year it had focused on further defining its overall mission, objectives, governance and future structure.

**UN action on supply chain security:** In December 2009 the United Nations Interregional Crime and Justice Research Institute (UNICRI) established a Permanent Observatory on Anti-counterfeiting Systems (POAS). This is a technical and analytical instrument focused on innovation.

The immediate focus has been on work to support improved control and transparency of distribution chains. This work is intended to enhance the security of the supply chain, to support law enforcement investigations and to improve transparency in the supply network. They will examine the possibility of a global "central management system" and a global databank, designed to support, integrate and work with all the existing traceability and identification systems already on the market – the Worldwide Track and Trace Bank (WTTB).

**New EU tools for SMEs:** the InnovAccess website, [www.innovaccess.eu](http://www.innovaccess.eu), was launched in January 2010. It is an EU initiative to improve understanding and awareness amongst SMEs. The site contains general and country specific information on a wide range of IP rights as a result of cooperation between all national patent and trade mark offices of the EU member states.

## C. Awareness raising and training

### Introduction

Awareness raising is an important part of the work aimed at tackling counterfeiting and piracy. A key focus to date has been on raising awareness and understanding of the problem and the role that various interests can play in tackling it. As well as engagement with enforcement agencies, industry and SMEs there are important messages to give to consumers, elected council members, financial investigators, criminal prosecutors and the judicial community. Work to raise awareness is further complemented by specific training and the development of guides and information tools such as the PoCA leaflet published by the IP Crime Group in May 2009 and the Supply Chain Toolkit to help equip people to take appropriate action.

2009/2010 saw the implementation of many new initiatives as well as the continued development of current programmes. This chapter provides an overview of some of the activities undertaken.

### ***IPO Activities***

During the 2009/2010 period the IPO undertook awareness raising and training activities covering a broad range of audiences, including trading standards, UKBA, police, SMEs and industry. These activities focused on raising awareness, disseminating information, spreading best practice and supporting the development of key skills. As well as general training and awareness of IP crime, the IPO has provided specific training on PoCA; intelligence gathering techniques; and how to conduct online investigations.

In July 2009 the IPO facilitated a four day investigative interview skills course, working with officers from West Midlands Police to deliver training to trading standards Officers. The objective of this training was to increase their knowledge and enhance their ability to investigate IP and other criminality.

Throughout the year presentations were delivered to raise awareness of the use of PoCA in IP investigations to those in the enforcement community. The IPO's PoCA Adviser targeted practitioners and management alike, looking into the practicalities of the Act, emphasising the proactive application of the mechanics of PoCA, with a particular accent on IP crime. More details can be found on activities relating to PoCA in the Sentencing, seizures and the Proceeds of Crime Act chapter.

As a joint commitment to raising awareness of IP through training of law enforcement officers, the IPO in conjunction with BPI organised two one day training sessions in February 2010 for investigators from Gwent Police. The event focused on skills, knowledge and practical advice for carrying out online crime investigations. As well as learning more about IP crime, delegates gained an understanding of crimes committed on the internet and the use of the internet as an investigative tool. The training also looked at the investigative challenges to be faced in the future.

The IPO also worked with European partners to deliver training and awareness packages for European businesses, within the framework of the European Commission's IPEuropAware project. Two SME days were held in 2009/2010 which focused on improving their understanding of IP crime and on providing practical support. In January 2010 a new set of guides on IP enforcement were published to aid European SMEs which are available at [www.ipeuropaware.eu](http://www.ipeuropaware.eu). These included a specific guide for the shoes, leather goods, furniture and textiles clothing sector aimed at helping SMEs in these sectors make use of the wide range of instruments available to protect their IP.

The IPO also worked with the Alliance Against IP Theft and other partners during the year on the design, funding and delivery of an IP module in the Diploma in Consumer Affairs and Trading Standards. This course, which is aimed at trading standards officers, covers all aspects of IP, criminal law and civil copyright issues. The 2010 course received a record number of delegates.

#### **The wider awareness role of the IPO: The Value of IP**

During 2009/10 the IPO played a key role in wider awareness and marketing activity on IP within the UK, focused on the importance of identifying, protecting and enforcing IP rights and encouraging respect for the IP rights of others.

The IPO's Cracking Ideas website at [www.crackingideas.com](http://www.crackingideas.com) provided resources to introduce students and teachers to the world of innovation and creativity. In April 2009 a Cracking Ideas competition was launched, inviting pupils to design what Wallace and Gromit's next home business adventure should be, with the winning entrant receiving an original bespoke trophy made by Aardman. 9,000 entries had been received from schools and individuals by March 2010.

The "Wallace and Gromit Presents A World of Cracking Ideas" exhibition ran throughout most of the reporting period, having opened on 28 March 2009 at the Science Museum, London. Presented by Aardman Animations, produced by SGA Productions and sponsored by the IPO to inspire a new generation of innovators, the exhibition was seen by over 186,000 visitors. Evaluations indicated that the event had a positive impact on awareness and respect for IP with 86% of children who visited the exhibition wanting to become inventors. The exhibition has moved to the Glasgow Science Centre and opened on 2 April 2010.

To help raise awareness of IP within businesses the IPO delivered a varied programme of events, workshops and IP audits. To support this work and help reach a wider audience, the IPO continued to market its free online diagnostic software tool 'the IP Healthcheck' which is available at [www.ipo.gov.uk/iphealthcheck](http://www.ipo.gov.uk/iphealthcheck). This step by step questionnaire is aimed at SMEs and helps them identify the types of IP they own which might be worth protecting along with helpful tips and advice. SMEs receive a confidential electronic report which identifies areas for potential action.

In December 2009 the IPO launched a new 2.5 day IP Master Class to further support businesses. The course was developed in partnership with the Welsh Assembly Government and Coventry University and is primarily aimed at experienced Business Advisors who want to develop their knowledge and skills when working with businesses on issues around IP. In a pilot sample group of business advisors, the course received a 98% customer satisfaction rate.

#### **Industry and enforcement agency activities.**

Industry and enforcement agencies carried out a wide range of activities to improve understanding of counterfeiting and piracy and to support proactive action by enforcement, businesses and consumers. There were many instances of partnership working on projects to exchange knowledge and skills and to disseminate best practice.

##### *ACG Roadshows*

ACG Roadshows were held at various locations across the UK to bring industry and the enforcement community together, in order to raise awareness of IP crime and the support and assistance which industry can provide in IP investigations. The Roadshows are an opportunity for ACG's brand owner members to show the enforcement community how to identify counterfeit versions of their products and explain industry initiatives to prevent counterfeiting.

Members of ACG joined many other rights holders, enforcement agencies and government at two national conferences in 2009 to raise the profile of IP crime. The TSI Conference in Brighton provided the opportunity to promote key initiatives involved in combating IP crime, and offer materials and best practice guides to support trading standards officers in their IP investigations. Attendance at the LGA Conference in Harrogate aimed to increase understanding of the nature and impact of IP crime, highlighting the social and economic impact of IP crime and what can be done to support trading standards in their enforcement efforts.

##### *Federation Against Copyright Theft (FACT)*

Regular training was provided by FACT investigators to police and trading standards officers. This training focused on making them aware of the scale of the problem in terms of hard goods and the internet, enabling them to identify counterfeit DVDs and explaining how FACT can share intelligence and provide support for enforcement officers. This training was supported by 'police notebook' sized booklets with clear and simple guidance on enforcing copyright.

As part of its ongoing work to tackle the problem of illegal recording in cinemas FACT also liaised regularly with cinema staff - providing training to prevent, deter and detect illegal recording/camcording. They also set up a dedicated website to provide further training to staff and financial incentives were offered to staff to encourage them to act. In 2009 FACT also updated its Best Practice

Guide for cinemas which was distributed to all UK cinemas along with a supplementary guide to assist police officers if they are called out to an incident.

FACT has now obtained two successful convictions for illegal recording in cinemas using section 6 of the Fraud Act 2006 and can now give clear guidance to police officers in England and Wales on the use of this legislation.

##### *MHRA Training Days for Law Enforcement Officers*

On the 8 October 2009 the MHRA Intelligence Unit ran its annual Law Enforcement Officers' Open Day to raise awareness of the work and role of the MHRA. Approximately 100 delegates attended the day which provided an opportunity to learn more about the work of the MHRA and the legislative base for action against counterfeit medicines as well as relevant case studies, the sharing of best practice and training on issues like internet investigations, searches and the work of the IPO Intelligence Hub.

##### *International Federation of Spirits Producers Europe (IFSP)*

IFSP Europe provided a number of Counterfeit Spirit Awareness and Recognition 'Workshops' to law enforcement agencies across the UK during the year. Attendees at the workshops were varied and included HMRC, UKBA, police intelligence officers/economic crime investigators, police licensing officers, SOCA and trading standards.

The workshops were designed to raise awareness of the problems posed by counterfeit spirits, key trends and case studies and the operation of spirit counterfeiters throughout Europe. The multi-agency 'workshops' approach to tackling counterfeit spirits has also led to the development of new contacts and working relationships among the law enforcement community.

### **Spotlight on Scotland - SCDEA**

The Scottish Crime and Drug Enforcement Agency (SCDEA) Interventions Unit's IP crime project began in December 2008, with the primary objective of raising public awareness about the links between IP crime and serious organised crime. It also aimed to change public attitudes and behaviours in respect of purchasing counterfeit goods.

Analysis of the issue in Scotland by SCDEA through the compilation of a problem profile had shown that IP crime posed a significant threat to industry while providing organised crime groups with a highly profitable 'low risk' means of financing further criminality. Research carried out with a number of participating organisations highlighted the need for greater structure and coordination in tackling IP crime in Scotland by enforcement agencies, and for greater cohesion between industry and regulatory bodies. Clearer structure, communication and coordinated action would help to generate public attitudinal change and aid the disruption of these groups. During 2009/10 a range of actions were taken by SCDEA to progress work on the IP Crime Project which included:

**Building Partnerships:** SCDEA and the Scottish Business Crime Centre held a joint event in June 2009 focused on the losses individuals can suffer and the detrimental effects IP crime has on Scotland's communities. It provided a forum for stakeholders from private business, law enforcement and regulatory agencies to share ideas and information.

Feedback from the day highlighted the need to develop a structured approach to prevention, intelligence gathering and enforcement in relation to IP crime in Scotland. As a result a new Scottish IP Crime Group was formed and key stakeholders were invited to participate. The inaugural meeting of this group was held in August 2009 and provided the first opportunity for many of the partners to discuss the issues collaboratively in a specifically Scottish context.

Although the project focused on providing a more structured strategic approach to IP crime in Scotland, the development of significant partnerships out-with Scotland including one with the IPO has provided valuable opportunities to link in with existing IP groups elsewhere. As a result, guidance has been produced and intelligence sharing improved. SCDEA also became a member of SOCA's IP Strategic Group and the IPO's IP Crime Group to forge new links between these groups with Scottish law enforcement and industry.

**Consumer awareness campaigns:** Work generated from these new partnerships saw the development of the Scottish Crime and Drug Enforcement Agency '**Fakes Fund Crime**' campaign in the Summer of 2009. This campaign focused on holidaymakers travelling abroad, concentrating on three of Scotland's major airports and highlighted the links between IP crime and organised crime. SCDEA worked in close collaboration with BAA and with partners including the ACG, Scottish football clubs and trading standards. Industry provided counterfeit goods for an exhibition staffed by the Interventions team, where information and advice on IP crime was provided to the travelling public at key holiday periods. In keeping with the holiday theme a postcard was created which provided an innovative and engaging means of conveying the campaign message. Engagement throughout the campaign ensured strong press and television coverage that extended the reach of the campaign messages to an estimated one million people across Scotland.

A further campaign was run during December 2009, targeting Christmas shoppers with the message "**Don't make this Christmas a gift for organised crime. Fakes Fund Crime**". Engagement with the Scottish Government raised the campaign profile with the Scottish Cabinet Secretary for Justice launching the campaign at Barras Market in Glasgow. This generated significant media attention and was complemented through the use of a giant media screen in Glasgow's Buchanan Street to reinforce the message. It was estimated that one million people would see the screen each week throughout the campaign which ran over Christmas and New Year.

### **Media activities**

2009/10 saw a range of media and broadcasting initiatives which focused on the important issue of IP crime. From nationwide and local coverage of events on World Anti-Counterfeiting Day to specific industry campaigns in the press and on posters, TV and cinema screens. Many of these messages looked at the risk that counterfeit products can pose for health and safety, their impact on the economy (nationally and locally) and their potential links to wider criminality, including organised crime. TV documentaries, like the BBC's Fake Britain series which aired in early 2010, also highlighted the issue, including programmes on counterfeit goods and counterfeit pharmaceuticals.

#### *World Anti-Counterfeiting Day – June 2009*

West Yorkshire Trading Standards staged an event crushing unsafe toys and electrical equipment with a road roller to highlight to their local community the harmful products for sale at markets. South Tyneside Council also took an educational approach targeting their local teenagers and businesses by producing a film 'Snidey Sidney', highlighting various scenarios involving counterfeit goods such as medicines.

#### *Counterfeit medicines*

A television, internet and poster campaign "Get real – get a prescription" launched in November 2009 by Pfizer UK appeared in over 3,000 locations over the UK. The posters warned consumers about the dangers of buying fake medicines from unregulated websites. They were supported by national media advertising and roadshows around 7 major cities. The Pfizer campaign was the result of a partnership between the MHRA, the Royal Pharmaceutical Society of Great Britain, Heart UK, and The Patient's Association, and was part of the wider week of action on internet sites discussed in Part A of this Chapter.

New research launched at the same time by Pfizer highlighted that 15% of the 2,076 British adults surveyed admitted buying prescription-only medicines online without a prescription. Almost a fifth (18%) believed people who sold prescription only medicines without a prescription were providing a service to the general public and a third (33%) thought that the product being purchased was genuine.

*You Make The Movies: Inspiring UK consumers to choose The Real Deal*<sup>41</sup>

The *You Make the Movies* campaign was launched in April 2009. Funded by the Industry Trust for IP Awareness as part of a long-term behaviour change strategy to limit copyright theft, it seeks to inspire consumers to choose the real deal by thanking them for the contribution they make every time they buy an official piece of content.

With self-interest a key motivator to behaviour change, *You Make the Movies* positions consumers as active stakeholders in film and TV creation, whose level of viewing pleasure is directly affected by whether they choose to access official or unofficial content. By reinforcing the relationship between paying for content and funding production, the campaign puts the public at the heart of the film-making process.

*You Make the Movies* is an integrated communications campaign, which aims to deliver best value for the creative industry by combining paid-for media with strategic use of media spaces already owned by Industry Trust members: Nationwide cinema trailers thank the public for their support, while DVD i-dents take the motivational message into consumers' homes and targeted digital media engages users who are searching for films online. A dedicated PR drive uses real-life film and TV workers to bring the campaign strap-line to life through individual, personal experiences of the challenges of making film and TV content.

Key highlights of the campaign in year one included:

- High campaign awareness among the core audience of 16-34 year old males, 60% of whom recall the campaign messages, according to an independent NOP study, with intent to pay for legal content significantly higher among those that have seen the campaign
- Targeted campaign planning and the strategic use of owned media have delivered a media value in excess of £3 million for an industry investment of £1.5million, and generated more than 60 million opportunities to see/hear the campaign
- Since launch, six other countries globally have sought advice from the Industry Trust on how to deal with copyright theft.

41 <http://europa.eu/rapid/pressReleasesAction.do?reference=IP/09/497&format=HTML&aged=0&language=EN&guiLanguage=en> (accessed 25.02.10)

The Industry Trust commissioned research and evaluation specialists, Aevolve, to analyse the impact of You Make the Movies in its first year. Their assessment concluded: “The messaging resonates with 16-34 year old males to a degree not previously seen with anti-piracy messaging and provides a ‘motivating hook’, which has most potential in delivering behavioural change.”

## D. Sentencing, seizures and the Proceeds of Crime Act

### Introduction

This section provides an update on the overall picture on legal outcomes in tackling IP crime. It includes published statistics on the volume of cases being progressed through the courts for criminal activities under IP specific legislation and looks at the seizure of infringing material and the use of PoCA to tackle IP crime during the period.

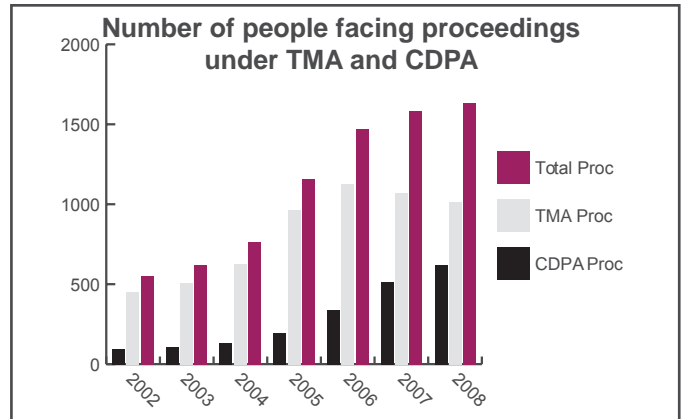
### Sentencing outcomes

Figures provided by the Ministry of Justice below show that the number of individuals proceeded against, found guilty and cautioned under the TMA 1994 and the CDPA 1988.

Number of people proceeded against							
YEAR	2002	2003	2004	2005	2006	2007	2008
Trade Marks Act	455	507	629	962	1128	1068	1012
CDPA	97	111	134	195	342	514	621
Total	552	618	763	1157	1470	1582	1633

Number of people found guilty							
YEAR	2002	2003	2004	2005	2006	2007	2008
Trade Marks Act	329	399	503	749	920	884	913
CDPA	71	84	100	160	249	365	478
Total	400	483	603	909	1169	1249	1391

At the overall level the number of proceedings have risen consistently since 2002. In 2008 proceedings were commenced against 1,633 people in the courts under CDPA 1988 and TMA 1994. It is important to note that this figure does not include any proceedings which may have been taken under other legislation – for example the Fraud Act 2006.

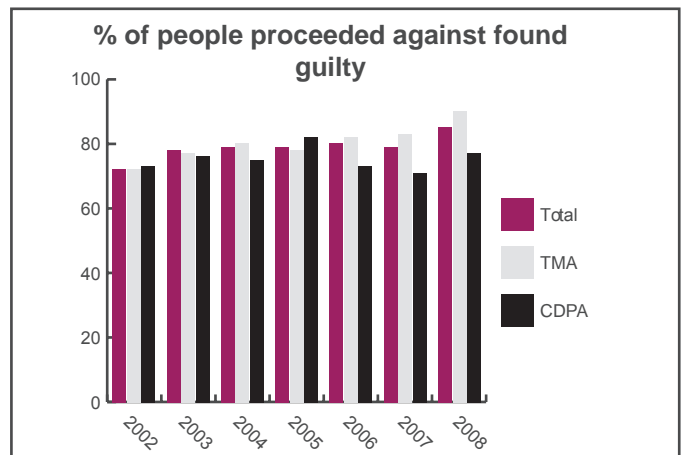


Looking separately at the two Acts there has been a recent drop in proceedings in relation to the TMA 1994 down 10% in 2008 from the 2006 figure of 1,128. In contrast we have seen a notable rise in the number of proceedings under the CDPA 1988 which have almost doubled since 2006 (up to 621 from 342)

Looking at the number of people who have been found guilty of offences under the Acts, again overall figures have risen every year since 2002, with the number tripling between 2002-2006 (rising from 400 to 1,169). The rise has been steadier in the latter period, with an 18% rise between 2006 and 2008.

Conviction rates for the TMA 1994 saw a slight drop (4%) in 2007 when there were 884 people found guilty compared to the 920 in 2006. However the figure rose again in 2008 to 913. For the CDPA 1988 there has again been a steady rise since 2002.

The percentage of people proceeded against found guilty under the two Acts hit an overall conviction rate in 2008 of 85% compared to 80% in 2006. However conviction rates in trade mark cases remain higher than under copyright legislation (with the exception of 2005). 2008 saw a 90% success rate in prosecutions under the TMA 1994 with 77% for case under the CDPA.



### Number of people cautioned

Number of people cautioned							
YEAR	2002	2003	2004	2005	2006	2007	2008
Trade Marks Act	18	59	120	194	187	187	201
CDPA	13	55	171	202	247	177	180
Total	31	114	291	396	434	364	381

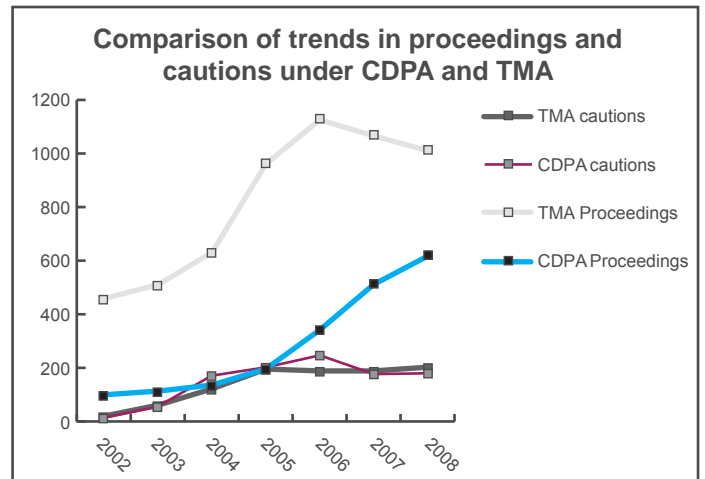
As well as seeing a notable rise in prosecutions and guilty verdicts for both the TMA 1994 and the CDPA 1988 over the period from 2002-2006 there was also a rise in cautions for offences under these Acts. The overall figures in 2002 were very low just 31 cautions across both Acts but in 2006 that figure had risen to 434 (57% of which related to CDPA offences).

The overall number of cautions fell in 2007 (to 364) notably due to a sharp drop in the number of CDPA related cautions. Cautions rose again in 2008 although this was largely a result of an increase in the volume of TMA 1994 related cautions.

The figures on cautions should be viewed in conjunction with the figures on prosecutions. While we have seen a notable reduction (in 2007 and 2008) in the volume of cautions being issued in relation to CDPA 1988 offences we have seen a significant increase in the number of prosecutions under the Act. In 2006 342 people were proceeded against under CDPA 1988 as compared to 514 in 2007 and 621 in 2008.

#### Case study on counterfeit medicines

July 2009 saw the conclusion of investigations led by MHRA into the international manufacture and distribution of counterfeit medicines. A UK-based organised crime group were part of a distribution chain, emanating from China involving millions of pounds. This operation involved the seizure of more than £1.5 million worth of fake drugs and the arrest and conviction of the gang members who received sentences totalling 17.5 years imprisonment and PoCA confiscation orders to the sum of £3 million.



#### Case study on camcording in cinemas

In November 2009 a man was summarily convicted under section 6 of the Fraud Act 2006 for camcording a film in the cinema on his mobile phone. The man was approached by cinema staff in Newport, Isle of Wight. He had managed to record 58 minutes of the film "Fast and Furious" - to a very good quality - before he was stopped. The phone had a memory card with a capacity of 2 hours which would have been sufficient to record the entire film. This successful prosecution was a positive indication that the existing UK offences are sufficient to tackle this type of offence.

#### Case study on auction sites

March 2010 saw the eventual conviction of three men who defrauded buyers out of hundreds of thousands of pounds through the sale of counterfeit goods through eBay following investigations and raids in 2007 and 2008 by Sandwell Trading Standards<sup>42</sup>. One of the men was jailed for 12 months and the other two were given suspended sentences and unpaid work in the community. The men were convicted under the TMA 1994 for offences relating to the possession and sale of a range of counterfeit goods through the auction website. The goods included trainers, clothing, perfume, handbags and sunglasses and were being sold to consumers as genuine products. The men now face a PoCA hearing.

<sup>42</sup> <http://laws.sandwell.gov.uk/ccm/content/councilgeneral/pressreleases/-2010-03/...> [nb check reference]

### Case study on markets

A Nottingham City Trading Standards case illustrates the use of sentencing options. The defendant was convicted in December 2009 for the sale and possession of counterfeit designer clothing and footwear from a market stall that had traded since 2005. Around 650 items of clothing and 360 pairs of footwear were seized, with the majority of items representing six different trade marks. In addition searches were carried out at the defendant's home and business addresses where more counterfeit items were seized. The defendant claimed that he had originally traded in genuine goods but later "he took a risk" that the goods he had purchased for cash at 5.00 am in the morning from unknown males might have been counterfeit. The sentence included a community order of 210 hours unpaid work and a three month electronic curfew between 18.00 and 6.00 each day. The associated PoCA hearing, in January 2010, ordered the payment of over £25,000 within six months.

*Digital Economy Act: proposals for new exceptional summary maxima for copyright infringement*

The Digital Britain Report set out plans to modernise the copyright sentencing framework by introducing a £50,000 maximum fine on summary conviction for certain online and physical offences under the Copyright, Designs and Patents Act 1988 (as amended). The proposals related to most of the offences contained within that Act, in particular those set out in section 107 and section 198 which relate to manufacture, sale and distribution of protected works and to dealings with illicit recordings. These plans were taken forward in the Digital Economy Act 2010 which received Royal assent in April 2010. These provisions came into force in June 2010.

*Appeal Court success in the Gilham Case (Modchips)  
Landmark judgement clarifying criminal copyright law*

Worcestershire County Council Trading Standards, working with ELPSA, brought a prosecution against Christopher Gilham, an online trader who sold electronic 'chips' that enabled computer consoles to play counterfeit games.

Evidence seized (following test purchases) established that the 'modchips', intended for most popular games consoles, would override the inbuilt security measures which would normally only permit the playing of genuine games.

Following a seven day trial Gilham was convicted on 15 counts under s296ZB of the CDPA 1988 at Worcester Crown Court in September 2008.

The prosecution had argued that when a game is inserted into the console, the disc is read and copied onto the RAM of the console leading to the copying of a 'substantial part' of the protected works (i.e. the drawings and designs of the characters in the game). The defence argued that the copy existed only for a fraction of a second and the RAM should therefore not be regarded as an 'article'.

Gilham lost his appeal against the decision on the basis of this reading of the copyright law when the case was heard at the Court of Appeal in October 2009 (R v Gilham [2009] EWCA Crim 2293).

The case was sent back to Worcester Crown Court for sentencing and in January 2010, the defendant was given a twelve month custodial sentence suspended for two years and ordered to carry out 300 hours unpaid work.

### *Further action on chipping consoles*

On 15 January 2009 Yuncan Meng pleaded guilty at Hull Crown Court to the possession and sale of circumvention devices under section 296ZB of the Copyright, Designs and Patents Act 1988. These circumvention devices included R4, edge and DST as well as other game copier cards for the Nintendo DS Lite console. He was sentenced to a total of 12 months imprisonment including an additional six months for continuing to trade in such goods after the date of the raid by trading standards and police.

### **Seizure and detention activity**

This data on seizures has been collated from information submitted to the IPO's Intelligence Hub from a range of enforcement bodies and industry sectors.

The top three categories of products recorded by trading standards reports were for tobacco products, DVDs & Software and clothing whereas for industry the three largest categories were DVDs/software, eGames and circumvention devices (chipping). The reports submitted by other government departments identified the top three categories as clothing, pharmaceuticals and tobacco products.

The following tables display the data that has been collated up to 31 March 2010:

Product seized											
	DVD/Software	CD	Tobacco products	Mobile accessories	Perfumes	Batteries	e Game	Pharmaceuticals	Vehicle accessories	Circumvention devices/chipping	Alcohol
Bexley TS											6
Birmingham TS	20,000							150 boxes	8		
Brent & Harrow TS			500			36					
Bury TS				3							
Camden TS											
CENTSA	10,350		7380 & 9 kg							3000	
CENTSA Scambusters			4400 & 2.75 kg								
Conwy TS	193										
Coventry TS	352		36397 & 675 pouches								
Croydon TS			77 pouches					300			17
Devon TS											
Doncaster TS											
EETSA	100	4100									
Hammersmith & Fulham TS			125			34 packs		164			
Hertfordshire TS				1							
Hillingdon TS											
Lancashire TS	410		103				245				
Leicester TS											
Liverpool TS			6550 & 4.3 kg								162
London TS			3729		100		40	86 boxes & 29			96 & 10 pallets
LOTSAs	1 case							321			
Manchester TS	10716		200 & 20 kg								
Merthyr Tydfil TS	700		4000				3587			4	
Newport TS	696		84 & 146 pouches								
Nottinghamshire TS	500						251				
Oldham TS									44		
Powys TS	14212*	1000									
Rhondda TS	4860*		128	1							
Sandwell TS	3000*										
Southwark TS											
Staffordshire TS	800										
Stockport TS	306										
Suffolk TS	220										
Surrey TS	1900	1000	57 pouches	31							
SWERCOTS											
Tower Hamlets TS			2837 & 2 pouches					347			
TSNW	1125										
TSSE											
Wales Scambusters											
Walsall TS	444										
Wandsworth TS	300	3000									
Warwickshire TS	3000*										
Wolverhampton TS			31 pouches								
Worcestershire TS			200								
Wrexham TS											
Yorks/Humberside			13000 & 3 kg								

Where possible, we have tried to eliminate duplication of seizure results, but cannot guarantee total elimination of duplication. We have done this by comparing product type and seizure size.

The above and other authorities may have submitted further intelligence reports, but they will not have been included if they did not include seizure details or if dissemination was not permitted.

\* Also includes box sets, films, video cassettes, CDs and eGame where no clear figures were given but only an overall figure for several items.  
\*\* large evidence bags

Hertfordshire TS also reported seizure figures totalling 1,633 which has not been counted as it has been quoted by other local authorities, as part of joint working.

Tobacco products' includes chewing tobacco, fruit tobacco and hand rolled tobacco.

Pharmaceuticals' includes condoms and cosmetic medicines.

Clothing' also includes trainers, footwear, and accessories where no clear figure per item were given but only an overall figure for several items.

Accessories' also includes purses, wallets, belts, bags, sunglasses, jewellery, watches where no clear figure per item were given but only an overall figure for several items. Other' consists of seizures with no clear product details; where several products have been combined; or miscellaneous items, for example ashtrays, mirrors, clippers, headphones, foot files; other/hair stylers, lighters, lanyards; beads, make-up

Product seized												
	Footwear	Clothing	Sunglasses	Clocks	Hair stylers	Handbags	Accessories	Jewellery	Ceramics and ornaments	Toys and stickers	Chainsaws	Other
Bexley TS												
Birmingham TS		650										
Brent & Harrow TS	4					200				2500		
Bury TS		126		158		7		13	7	8		102
Camden TS		256										
CENTSA												
CENTSA Scambusters												
Conwy TS		33										
Coventry TS												
Croydon TS												
Devon TS											6	
Doncaster TS		50										
EETSA	3	1000										1600
Hammersmith & Fulham TS												
Hertfordshire TS	500	2280										320
Hillingdon TS		39**										
Lancashire TS												
Leicester TS		635				271						
Liverpool TS		7										
London TS		1200					260					68
LOTSAs		973 (& 3**)					171					
Manchester TS		7168						50				2026
Merthyr Tydfil TS												
Newport TS		5										
Nottinghamshire TS												
Oldham TS	26											
Powys TS		130										620
Rhondda TS		120										12
Sandwell TS										100		
Southwark TS		1500										
Staffordshire TS		200										
Stockport TS												
Suffolk TS						11						
Surrey TS		67	316					195				63
SWERCOTS						6			3			
Tower Hamlets TS												
TSNW												
TSSE												1204
Wales Scambusters		134										
Walsall TS		20			100			22				
Wandsworth TS	96											
Warwickshire TS	3	8										
Wolverhampton TS		85										
Worcestershire TS												
Wrexham TS		1000										
Yorks/Humberside		73									2	

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Accessories' also includes purses, wallets, belts, bags, sunglasses, jewellery, watches where no clear figure per item were given but only an overall figure for several items. Other' consists of seizures with no clear product details; where several products have been combined; or miscellaneous items, for example ashtrays, mirrors, clippers, headphones, foot files; other/hair stylers, lighters, lanyards; beads, make-up

Production equipment and packaging seized							
	Computer equipment	Computer consumables	Laminator	Packaging	Labels	Methanol	Whisky flavouring
Bexley TS							
Birmingham TS	3						
Brent & Harrow TS							
Bury TS	2			8			
Camden TS							
CENTSA	1						
CENTSA Scambusters							
Conwy TS							
Coventry TS							
Croydon TS							
Devon TS							
Doncaster TS							
EETSA							
Hammersmith & Fulham TS							
Hertfordshire TS			1				
Hillingdon TS							
Lancashire TS							
Leicester TS							
Liverpool TS							
London TS	4					3000	147
LOTSA				17			
Manchester TS	71				10000		
Merthyr Tydfil TS	1						
Newport TS							
Nottinghamshire TS							
Oldham TS							
Powys TS							
Rhondda TS	13	1251		110	1		
Sandwell TS							
Southwark TS							
Staffordshire TS							
Stockport TS							
Suffolk TS							
Surrey TS							
SWERCOTS							
Tower Hamlets TS							
TSNW							
TSSE							
Wales Scambusters							
Walsall TS	3						
Wandsworth TS							
Warwickshire TS							
Wolverhampton TS							
Worcestershire TS							
Wrexham TS							
Yorks/Humber							

## Product seized

	DVD/Software	CD	Tobacco pouches <sup>1</sup>	Mobile accessories	Perfumes	Batteries	e Game	Pharmaceuticals <sup>2</sup>	Vehicle accessories	Circumvention devices/ chipping	Footwear <sup>3</sup>	Clothing <sup>4</sup>	Sunglasses	Watches	Hair stylers	Handbags <sup>5</sup>	Accessories <sup>6</sup>	Jewellery	Alcohol	Toys and stickers	Other <sup>7</sup>
HMRC	500	142		11,244			77		30,000		373	609			10	131	5,033	500	45,000	164	589
UKBA	3,542		114,844	38,017	35,921		72	187,820	7,670	1,474	69,566	523,777	1,087	15,137	1,062	1,803	2,068	9,464		7,797	136,073

Where possible, we have tried to eliminate duplication of seizure results, by comparing seizure size and product type, but cannot guarantee total elimination of duplication.

<sup>1</sup> In addition to the pouches, 210 kg of tobacco was also seized by UKBA.

<sup>2</sup> 'Pharmaceuticals' includes medicine (including cosmetic medicine), razors/blades, toothbrush heads.

<sup>3</sup> In addition to UKBA's figure, 789 cartons of footwear were also seized.

<sup>4</sup> In addition to UKBA's figure, 382 cartons of clothing were also seized.

<sup>5</sup> In addition to UKBA's figure, 615 cartons of handbags were also seized.

<sup>6</sup> 'Accessories' also includes purses, wallets, belts, bags, hair clips, footwear where no clear figure per item were given but only an overall figure for several items.

<sup>7</sup> 'Other' consists of seizures with no clear product details; where several products have been combined; or miscellaneous items, for example headphones, jewellery boxes, pin badges, work of art.

## Production equipment and packaging seized

	Computer equipment	Computer consumables	Packaging	Labels <sup>8</sup>	Product components <sup>9</sup>
HMRC	450		2,500		
UKBA	2,525	1,907	23,165	65,230	6,177

<sup>8</sup> 'Labels' includes stickers and tax stamps

<sup>9</sup> 'Product components' includes branded buttons and badges

## Industries seizures for 2009/2010

	DVD/Software	CD	Mobile accessories	e Game	Circumvention devices/ chipping	Footwear	Clothing	Sunglasses	Watches/Clocks	Handbags	Accessories	Jewellery	Toys	Other
BPI	33													
ELSPA	6838*			71465	23705		301 cartons							27259
FACT	124577	6145	127	2087										
MCPS		52**												
PLAYBOY			8						9					7512
REACT			1			289	1934	13	2	255	229	147	221	3127
SKY														32
TIMBERLAND						25	1572							
UGG						977	4			7				519

Where possible, we have tried to eliminate duplication of seizure results, by comparing seizure size and product type, but cannot guarantee total elimination of duplication. The above organisations and others may have submitted intelligence reports, but they will not have been included if they did not include seizure details or if dissemination is not permitted.

\* Also includes box sets, films, video cassettes, CDs and eGame where no clear figures were given but only an overall figure for several items.

\*\* Includes other music formats

'Other' consists of seizures with no clear product details; where several products have been combined; or miscellaneous items, for example: ashtrays, mirrors, clippers, cigarette cases, manicure set, towels, hair bobbles, lanyards, footwear, money boxes.

Production equipment and packaging seized				
	Computer equipment	Computer consumables	Packaging	Labels
BPI				
ELSPA	6370*		6000	2000
FACT	57	382 + 2 bags		
MCPS				
REACT				119
SKY				
TIMBERLAND				
UGG			165	

\* Also includes consoles where no clear figures were given but only an overall figure for several items.

The following table of seizures was provided by the British Recorded Music Industry's (BPI) Anti-Piracy unit. IT covers the period 1 April 2009 to 31 March 2010.

#### All Areas

No Of Reports: 459

No Of Raids: 365

Group	Description	Quantity
<b>CDs</b>		
	Bootleg CD	4966
	Bootleg CDR	262
	CD Album	6895
	CD Single	1
	CDRs Album	103552
	DJ Pirate Mix Compilation	640
	Hip Hop Pirate Mix Compilation	1696
	Pirate Music CD (CDR)	933
<b>Totals</b>		118945

Group	Description	Quantity
<b>Vinyl</b>		
	Bootleg Vinyl	1767
	Vinyl	2754
<b>Totals</b>		4521

Group	Description	Quantity
<b>Digital Album</b>		
	Digital Albums	28089
	Digital Bootleg Video	2500
	Digital Tracks	651306
	MP3 CDR	9516
	MP3 DVDR	25654
<b>Totals</b>		717065

Group	Description	Quantity
<b>DVD</b>		
	Bootleg DVD	816
	Bootleg DVDR	190
	Music DVD	2573
	Pirate Music DVD (DVDR)	1858
<b>Totals</b>		5437

Group	Description	Quantity
<b>Burners</b>		
	Burners per tray	425
<b>Totals</b>		425

Group	Description	Quantity
<b>Blank Disks</b>		
	Blank CD	4533
	Blank DVD	10390
<b>Totals</b>		14923

Group	Description	Quantity
<b>Other/Repertoire</b>		
	Asian Film DVD(pressed)	177452
	Asian Film DVDR	7953
	Asian Music CD (pressed)	41304
	Karaoke	737
	Miscellaneous	251164
	Sat Nav Systems	3
	Server	3
<b>Totals</b>		478616

Group	Description	Quantity
<b>Hardware/Accessories</b>		
	Card Inlays	4511
	Computers	129
	Harddrives	91
	Laptops	43
	Memory cards	17
	Memory sticks	22
	Mobile Phones	20
	Monitors	19
	Printers	50
<b>Totals</b>		4902

Group	Description	Quantity
<b>Default</b>		
	Adult DVD	6760
	Advise and Warning	1
	Digital Inlay sleeves	17816
	DVD Film	60892
	Genuine CDs	38
<b>Totals</b>		85507
<b>Overall Totals</b>		1430341

### *UK interventions at the border*

HMRC figures show that over 2,100 consignments of infringing goods were detected at the UK frontier during 2009/10. This resulted in the detention of over four million items which had an estimated value (based on the price of the genuine item) of £40 million. This figure does not include substantial quantities of counterfeit products such as tobacco and alcohol which were seized on the grounds of revenue evasion.

### *New Customs Procedures*

HMRC made important changes to the UK policy on goods detention in Summer 2009 following a court ruling that the previous procedures were incompatible with EU laws set out in EC Regulation 1383/2003:

<http://eurlex.europa.eu/LexUriServ.co?uri=OJ:L:2003:196:0007:0007:EN:PDF>

Under the new procedures the burden of proof in relation to seized goods rests with the rights holder who must take court action if they want goods to be impounded or destroyed. To support the new approach changes were made to deliver new and simplified procedures on the abandonment and disposal of infringing goods at UK borders.

### *Appeal decision - seizure of goods and private prosecutions (The Scopelight Case)*

Mr and Mrs Anton Vickerman owned and controlled a company called Scopelight, which ran a website called "SurfTheChannel.com" ("STC"). STC is a video search engine website consisting of many thousands of links to third party websites which host videos covering a wide range of categories.

In August 2008 the police, accompanied by FACT investigators and a specialist computer forensic expert, seized computers and servers from the Vickerman's home. Mr and Mrs Vickerman were arrested and taken to Gateshead police station where they were questioned but released on unconditional bail. Mr Vickerman eventually managed to get STC up and running again.

The police then decided not to bring a prosecution and Scopelight subsequently brought their own court case ([2009] EWHC 958 (QB)) seeking return of their property. Sharp J held that the police did not have powers to retain seized material in circumstances where the Crown Prosecution Service had declined to bring a prosecution and FACT wished to commence a private prosecution.

The Chief Constable of Northumbria Police and FACT appealed this decision ([2009] EWCA Civ 1156) and the Court of Appeal found for the appellants. In doing so, Leveson LJ said that there were basic safeguards in place to ensure the correct use of police gathered evidence. The Court's ruling asserted that police must assess each case on its merits and then decide whether such evidence can be retained and passed to a private prosecutor.

This important case sheds valuable light on the construction and interpretation of section 22 of the Police and Criminal Evidence Act 1984 (PACE). The judgement also recognises the important role that private prosecutions can play in upholding criminal law generally including those relating to copyright.

### **Usage of PoCA in England & Wales**

During 2009/10 the PoCA has continued to provide a valuable tool in efforts to tackle IP crime. The Act provides Accredited Financial Investigators (AFIs) with the means to proactively investigate the financial profile of criminals and to take the steps necessary to secure the seizure of profits. Many forms of IP crime are covered by the PoCA powers and their inclusion in Schedule 2 of the Act means that a 'lifestyle' investigation can be conducted where necessary.

### *Outcomes*

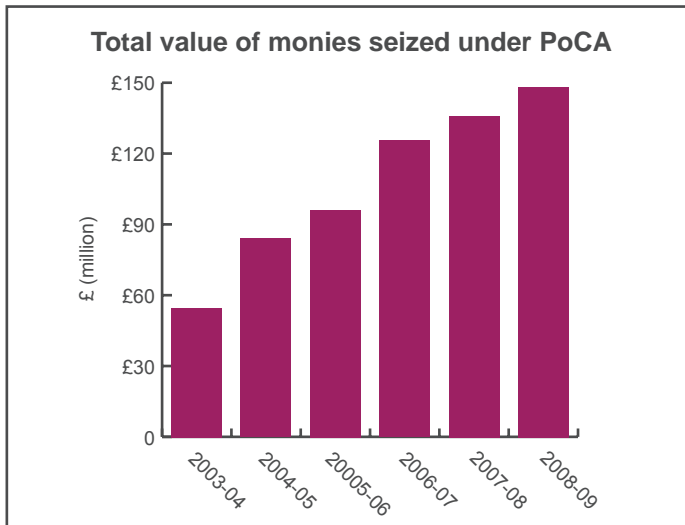
The application of PoCA to investigations by police and Trading Standards is becoming more commonplace as enforcement agencies become familiar with the process.

### *PoCA Seizure Statistics*

A Home Office press release on 26 June 2009 indicated that the total value of assets that was recovered in 2008-09 was £148 million. This is steadily increasing each year as the following table demonstrates.

YEAR	Amount seized under PoCA (£million)
2003-04	54.5
2004-05	84
2005-06	96
2006-07	125.36
2007-08	135.7
2008-09	148

Recent updates from the Home Office have announced that £153.7m was recovered under PoCA from all crimes in 2009/10.



**Case study: Leicestershire smuggler pays back £1.3 million:** In July 2009 Leicestershire cigarette smuggler Jayesh Bhanji was ordered to pay back criminal profits of nearly £1.3 million following the investigation by HMRC of a multi-million pound smuggling plot. He was given six months to pay the cash or face an additional three years on his sentence and interest on the sum for non-payment. Bhanji's wife was also ordered to repatriate over £100,000 which had been allegedly to Spain. The confiscation orders follow an investigation in 2003 of a container being imported from Kenya which falsely declared its consignment as tea. Bhanji was part of a 10 strong gang found guilty of smuggling 8.1 million counterfeit cigarettes into the UK - with a revenue loss to the public of £1.3 million. Another member of the gang had previously been ordered to repay £1 million by December 2009.

**Case study:** In February 2010 Teesside Crown Court ordered Mark Edwards, 42 of Billericay, Essex to pay over £38,000 under POCA. Edwards was found to have £18,600 in available assets and to have hidden assets of £20,000 with the court finding that he had benefitted from his offending and criminal conduct by £550,000. He was given six months to pay and would face 15 months imprisonment in the event of non-payment. He had previously pleaded guilty to 11 offences of supplying and possessing for supply counterfeit goods, conspiracy to defraud and money laundering and had been sentenced to two years imprisonment in July 2008.

In December 2005 North Yorkshire County Council Trading Standards had conducted a proactive PoCA investigation into his criminal online counterfeiting activities utilising the auction house eBay that was impacting upon their area. The investigation uncovered numerous cases of identity fraud, fraudulent banking practices, sales of counterfeit luxury branded goods, including counterfeit Channel sunglasses, Links of London jewellery, Jean Paul Gautier perfumes and other branded goods.

The County Council's Executive Member for Trading Standards and Planning Services, Cllr Clare Wood, said: "The Proceeds of Crime Act is a very valuable crime-fighting tool. Offenders need to be aware that we will take all possible steps to ensure that crime does not pay in North Yorkshire. This includes removing assets offenders have gained as a result of their criminal behaviour."

#### December 2009 – Record PoCA Order for Kent Trading Standards and Kent Police

A man from Medway, Kent who received a two-year suspended sentence for handling £5,000 worth of counterfeit goods has been ordered to pay back £3.2 million pounds following a joint investigation by Kent Trading Standards and Kent Police. He faces 10 years in prison if he does not pay back the money within six months.

Guarcharan Singh, from Chatham was found with £5,000 of counterfeit luxury handbags, shoes and sunglasses. In September 2007 he was charged with 43 counts of selling fake goods in his shop and at a market stall in Folkstone. Counterfeit stock was also found in his warehouse in Chatham. Kent Police's Serious Economic Crime Unit and Kent Trading Standards obtained a confiscation order under the PoCA.

Detective Inspective Mark Fairhurst of Kent Police said "Our forensic accountants investigated Singh's accounts and examined his lifestyle. It was clear that Singh's lifestyle was not supported by his legitimate business.". He added "This is the largest confiscation order achieved by Kent Police and is a direct result of Kent Police and Kent Trading Standards working together to tackle organised crime. This underpins the message that crime does not pay."

An order was made for the destruction of the fake shoes, handbags, purses and jewellery.

### *Role of the National Policing Improvement Agency (NPIA)*

The NPIA has a statutory duty under the legislation to train, accredit and monitor financial investigators (FI). Trading standards authorities have nationally increased their FI establishment by approximately 162% over the last 18 months, with figures for FI's and senior appropriate officers (departmental supervisors/managers) continuing to grow steadily. This process has seen the development of in-house knowledge of the PoCA grow, enabling the innovative and imaginative application of the legislation in combating intellectual property crime.

#### *Awareness raising and capacity building*

In 2009/10 the IPO continued its work to promote the use of PoCA in relation to IP crime – raising awareness of the important role that it can play in clamping down on criminality. This involved a widespread programme of events across the UK to increase awareness and build capacity as well as work by the IPO's Accredited Financial Investigator to provide direct support for investigations.

A priority area of focus for the NPIA during the year has been to work with trading standards to embed PoCA within their investigations at an early stage. The objective has been to ensure that preliminary assessments are made before the criminal is aware of the investigation – to reduce the risk of asset dissipation. Once such potential has been established trading standards officers would then work closely with the AFI to identify the location of a criminal's benefit and other assets.

"Payback Times" provided a valuable source of information for people involved in work on proceeds of crime. This quarterly publication is intended to keep professionals working in the asset recovery community up-to-date with the innovative and creative ways in which powers under PoCA can be used to deter, detect and disrupt criminality, and ultimately reduce the harm caused to the UK and its communities by crime.

**Trading Standards North West:** Trading Standards North West's Regional Financial Investigation Unit based in Warrington has developed a training programme to support local authorities interested in utilising PoCA with a bespoke training day targeted at local authority solicitors and senior trading standards officers. The course is a mixture of lectures and practical exercises with delegates being asked to bring along an active case file for examination/exploration during the workshop. The aims of the course are to improve understanding of PoCA, the process and evidential requirements and in particular how to conduct investigations relating to online offences.

#### *Changes to the PoCA legislation (in England & Wales)*

In November 2009, the Proceeds of Crime Act 2002 (References to Financial Investigators) (Amendment) Order 2009 (SI 2707) came into force which extended and enhanced the PoCA powers of a number of law enforcement authorities including local authorities.

In July 2009 the Home Office circulated a consultation memorandum to relevant parties addressing the inclusion of further offences which would extend the range of lifestyle criteria covered by PoCA as set out in Schedule 2 of the Act.

The IPO, ELSPA and The Alliance Against IP Theft proposed that the inclusion of section 296ZB of the CDPA 1988 to the schedule would benefit law enforcement and the gaming industry.

This provision contains offences relating to the manufacture, sale, use etc of devices and services used to circumvent technological measures, a particular concern. The devices are commonly found in mass manufacture and distribution environments and can generate significant criminal benefit for criminals and organised crime groups.

Over the past two years the industry have supported 24 prosecutions relating to these devices. Two such criminals involved in these activities were assessed as having a criminal benefit of approximately £1,000,000, with the operation also seizing thousands of circumvention devices.

### *Civil recovery under POCA*

In 2009/10 SOCA continued to take forward a range of activities linked to the civil recovery of criminal profits under PoCA.

The duties of the Asset Recovery Agency (ARA) were transferred to SOCA by the Serious Crime Act 2007. This included their civil recovery function under Part 5 of the legislation which enables SOCA to recover property obtained through unlawful conduct, through the High Court or the Court of Session in a similar manner to confiscation under PoCA.

Civil recovery is applicable in cases where a criminal prosecution has been unsuccessful or prosecution was not a realistic option. In such instances a criminal confiscation cannot be sought. Civil recovery might for example be relevant where a criminal prosecution has collapsed due to procedural matters, the offender is dead or is abroad and unlikely to be subject to a successful extradition request. Provided that there is evidence of assets obtained through unlawful conduct, enforcement agencies can make a referral to SOCA for civil recovery. In deciding whether to proceed, SOCA will take into consideration the likely level of unlawfully obtained property, which must not be less than £10,000 in value. The proceedings are against the property and to the civil standard of evidence, i.e. the balance of probabilities. In addition SOCA will consider the risk of dissipation of assets, with the view to placing a Freezing Order on property.

# Chapter 3: Results of the 2009/10 Survey of Trading Standards

A survey on IP crime related activity by trading standards officers was distributed by the Intellectual Property Office (IPO) to all UK trading standards services in December 2009. The survey sought information from each local authority on their experiences of IP crime during the 2009/10 period. A copy of the questionnaire is available on the IPO website.

The IPO received 104 responses covering a wide variety of local authorities. Some of the authorities submitted their responses on an anonymous basis but where possible this chapter identifies trading standards service

by name and the IPO has also carried out analysis looking at responses on a regional basis as well as at the local level. Where possible comparisons have been drawn with the responses received to the 2008/09 questionnaire.

## A. Types of goods investigated

Respondents were asked what type of products they had investigated since 1 April 2009. The following table outlines the collection of responses broken down into regions.

		TYPES OF GOODS INVESTIGATED 2009-10																					
Region	Authority	CDs	DVDs	Software	Designer Goods	Jewellery	Watches	Batteries	Cigarettes/tobacco	Toiletries	Electrical Goods	Alcohol	Vehicle Parts	Computer Parts	Toys	Construction materials	Aviation parts	Clothing	Footwear	MP3 files	Digital files(streamed illegally online)	Digital files (shared illegally via online filesharing networks)	
SCOTSS	Aberdeen		X		X	X			X									X	X				
	Dumfries & Galloway	X	X		X	X	X		X		X							X	X				
	Dundee City	X	X	X	X				X		X			X				X	X				
	East Renfrewshire			X	X			X	X	X	X	X	X						X				
	Glasgow	X	X	X	X	X	X		X	X	X	X						X	X				
	Inverclyde;				X	X	X											X	X				
	Moray		X	X		X					X								X				
	North Lanarkshire	X	X		X	X	X	X	X		X	X						X	X	X			
	Orkney Islands			X	X																		
	Perth & Kinross				X	X					X				X			X					
	Scottish Borders				X				X									X					
	South Lanarkshire		X		X	X			X			X						X		X			
	Stirling & Clackmannanshire	X	X		X						X	X						X					
	West Dunbarton		X	X	X			X	X		X							X	X				
	West Lothian		X	X	X	X	X		X		X							X	X				
TSNW	Blackburn with Darwen	X	X	X	X				X		X	X			X			X	X				
	Blackpool	X	X	X	X	X	X		X	X	X	X			X			X	X	X			
	Bolton	X	X	X	X	X			X		X	X						X	X				
	Bury	X	X		X	X			X			X			X			X	X				
	Cheshire East	X	X																				
	Cheshire West & Chester	X	X		X	X	X		X	X	X	X						X	X	X			
	Knowsley	X	X	X	X	X	X		X	X	X	X						X	X	X			
	Lancashire	X	X		X		X		X	X	X	X						X	X	X			
	Liverpool	X	X	X	X	X	X		X	X	X	X		X				X	X	X			
	Manchester	X	X	X	X	X	X	X	X	X	X	X			X			X	X	X	X	X	X
	St Helens		X											X				X	X	X			
	Stockport	X	X	X	X		X		X	X	X	X						X	X				
	Tameside	X	X	X	X				X		X	X						X	X				
	Trafford	X	X		X				X	X		X						X	X				
	Warrington & Halton	X	X	X	X	X	X		X		X							X	X				
	Wigan		X		X	X	X		X									X	X				
	Wirral	X	X	X	X				X			X			X			X	X	X			
CENTSA	Coventry		X	X	X				X			X						X	X			X	
	Dudley	X	X	X	X				X		X	X						X	X				
	Sandwell	X	X	X	X	X			X		X	X			X			X	X				
	Stoke on Trent	X	X	X	X				X	X	X	X		X	X			X	X	X			
	Walsall	X	X	X	X	X		X	X	X								X	X	X			
	Warwickshire	X	X	X	X		X		X	X		X	X		X			X	X	X			
	Wolverhampton	X	X	X	X				X		X	X		X				X	X	X	X	X	X
	Worcestershire	X	X		X	X	X		X		X				X			X	X	X			
WHOTS	Blaenau Gwent	X	X	X	X				X			X						X	X	X			
	Bridgend	X	X		X													X	X	X			
	Caerphilly	X	X		X	X	X		X	X	X							X	X				

## TYPES OF GOODS INVESTIGATED 2009-10

		CDs	DVDs	Software	Designer Goods	Jewellery	Watches	Batteries	Cigarettes/tobacco	Toiletries	Electrical Goods	Alcohol	Vehicle Parts	Computer Parts	Toys	Construction materials	Aviation parts	Clothing	Footwear	MP3 files	Digital files(streamed illegally online)	Digital files (shared illegally via online filesharing networks)
	Carmarthenshire	X	X	X	X	X	X		X	X	X			X	X			X	X	X	X	X
	Flintshire			X						X								X	X			
	Isle of Anglesey		X	X	X							X			X			X	X			
	Merthyr Tydfil	X	X	X	X				X									X				X
	Newport	X	X	X	X				X		X							X	X	X		
	Rhondda Cynon Taff	X	X	X	X		X		X		X	X						X	X			X
	Vale of Glamorgan				X						X							X	X			
SWERCOTS	Cornwall	X	X		X				X			X						X				
	Devon		X	X	X	X			X		X		X		X			X	X			
	Dorset	X	X	X	X	X	X			X	X		X		X			X	X			
	Gloucestershire	X	X		X		X		X	X	X	X						X	X	X		
	Poole	X	X		X				X									X	X			
	South Gloucestershire	X	X	X	X	X												X	X			
	Swindon		X		X							X						X	X			
	Wiltshire				X													X				
NETSA	Stockton-on-Tees	X	X		X	X	X		X	X	X	X			X			X	X			
Yorks/Humbs	Hull	X	X	X	X	X			X	X				X				X				
	Lincolnshire	X	X	X	X	X			X	X	X	X						X	X	X		
	North Lincolnshire	X	X	X	X	X			X		X							X	X	X		X
	North Yorkshire	X	X		X	X			X	X		X						X	X			
	WYJS	X	X	X	X	X	X		X	X	X	X	X	X	X			X	X	X		
	York		X	X	X													X				
TSEM	Derby City		X		X				X			X						X	X			
	Derbyshire	X	X	X	X	X	X		X		X							X	X	X		
	Leicestershire	X	X	X	X	X	X		X	X	X	X					X	X				
	Northamptonshire	X	X	X	X	X	X		X		X		X					X	X			
	Nottinghamshire	X	X	X	X	X	X		X	X	X							X	X	X		
EETSA	Essex	X	X	X	X	X	X	X	X		X		X	X				X	X		X	
	Hertfordshire	X	X	X	X	X	X		X									X	X	X	X	X
	Luton		X					X	X	X		X							X			
	Suffolk	X	X	X		X			X	X									X			
LOTSA	Bexley		X		X	X	X			X		X						X	X			
	Croydon			X	X	X			X	X	X	X						X	X			
	Greenwich		X	X	X			X			X	X						X				
	Islington				X				X			X						X	X			
	Lambeth	X	X		X		X					X			X			X	X			
	Merton	X	X	X	X			X	X		X	X						X				
	Richmond				X													X	X			
TSSE	Hampshire	X	X	X	X	X	X			X	X		X		X			X	X		X	
	Isle of Wight			X	X	X			X		X											X
	Medway	X	X		X	X		X		X				X				X				
	Oxfordshire	X	X	X	X	X	X	X	X	X	X	X			X			X	X			
	Portsmouth	X	X		X				X		X							X				
	Reading	X	X	X	X	X			X	X								X	X			
	Slough		X		X				X		X	X										
	Surrey	X	X	X	X	X	X		X			X						X	X			
	West Sussex		X		X	X			X		X							X				
Miscellaneous	Anon 8	X			X	X				X	X							X	X			
	Anon 7	X	X		X	X	X		X			X						X	X			
	Anon 5	X	X	X	X	X			X		X							X	X			
	Anon 13	X	X	X	X	X	X			X								X	X			
	Anon 14	X	X						X									X	X			
	Anon 12		X		X	X						X						X				
	Anon 2	X	X		X				X										X			
	Anon 4	X	X	X	X				X		X							X				
	Anon 3	X	X	X	X				X									X	X			
	Anon 6	X	X	X	X	X			X		X	X						X				
	Anon 10		X		X		X		X			X										
	Anon 1	X	X	X	X	X	X	X	X	X	X	X		X	X			X	X	X		
	Anon 9	X	X	X	X	X			X	X								X	X			
	Anon 11	X	X	X	X	X	X			X		X						X	X			
		71	90	61	95	56	38	13	77	37	52	52	7	11	21	0	0	93	80	27	8	6

The results show the broad range of products that had been investigated by the respondents over the period including vehicle parts, toiletries, digital files, alcohol and clothing. Respondents also provided details of a wide range of additional products which were not included in the questionnaire, including cigarette lighters, sunglasses, razor blades, lanyards, ped eggs (foot files), soft furnishings, condoms and vinyl records.

Overall the number of respondents who had carried out investigations involving DVDs was notably higher than for CDs (90% as compared to 70%). Scotland and LOTSA had the lowest percentage for both DVDs and CDs but again the DVD figures were considerably higher. 60% of respondents had investigated software (62 out of 104) but this was still quite high coming eighth on the list overall. The respondents also referenced investigations relating to digital content being delivered over the internet – with eight authorities investigating digital files that had been streamed and six investigating P2P files sharing.

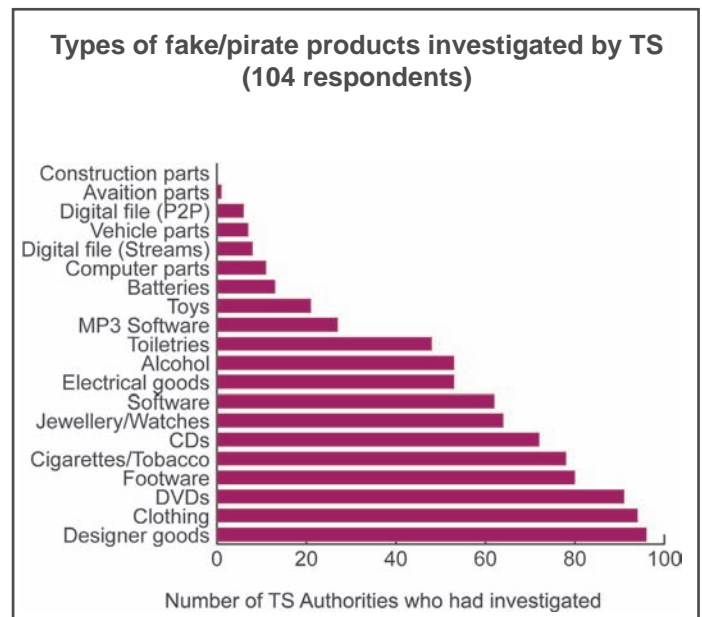
Overall 90% of respondents had investigated designer goods – although there may be some overlap with other categories here such as clothing, jewellery and watches which were all high as well.

Many of the products investigated raise potential concerns about consumer health and safety. Cigarettes and tobacco continue to be a major problem with 75% of respondents being involved in investigations while electrical goods (51%) and toiletries (46%) also featured highly. 21 authorities had investigated fake toys, 11 had investigated computer parts, seven had seen vehicle parts with only Leicestershire Trading Standards investigating fake aviation parts. There were nil reports of fake construction materials.

In many instances there was considerable variation across the regions for investigations. For example, overall 51% of respondents had investigated counterfeit alcohol but in a number of regions there was over 70% of authorities reporting that they had investigated counterfeit alcohol whilst in Scotland, South East of England (TSSE) and the East of England (EETSA) the figure was less than 35%.

For clothing and footwear there was a very high number of investigations over the period. Clothing was spread evenly across the regions with no obvious figures that stand out. Overall 77% had investigated footwear and in most regions it was quite high. TSSE had quite low percentage with less than half of the authorities from that region saying that they had investigated footwear in this period.

The following chart outlines the results from the 104 respondents



## B. Where counterfeit/pirated goods been investigated in 2009-10

Respondents were asked where they had investigated counterfeit or pirated goods since 1 April 2009. The following table outlines the collection of responses broken down into regions.

		LOCATIONS WHERE TS INVESTIGATED COUNTERFEIT/PIRATED GOODS														
		83	58	56	77	2	34	11	65	12	27	13	81	7	4	2
		Outdoor Markets	Car Boot Sales	On the street	Ordinary shops	Pharmacies	Pubs/clubs	Door-door sales	Private residences	Factories	Workplaces	Festivals/Music venues	Via the Internet	Postal hubs	UK ferry/Shipping ports	UK airports
TS Region	TS Authority															
SCOTSS	Aberdeen			X			X		X		X		X			
	Dumfries & Galloway		X		X				X				X			
	Dundee City			X	X		X		X			X	X			
	East Renfrewshire				X	X			X				X			
	Glasgow	X	X	X	X						X		X			
	Inverclyde;				X								X			
	Moray								X				X			
	North Lanarkshire		X	X	X		X		X				X	X		
	Orkney Islands								X				X			
	Perth & Kinross	X	X		X							X	X			
	Scottish Borders				X								X			
	South Lanarkshire		X		X			X			X		X	X		
	Stirling & Clackmannanshire	X	X	X	X		X		X		X					
	West Dunbartonshire	X		X	X								X			
	West Lothian	X							X				X			
TSNW	Blackburn with Darwen	X		X	X		X		X				X			
	Blackpool	X		X	X		X	X								
	Bolton	X	X	X	X				X				X			
	Bury	X	X		X								X			
	Cheshire East			X												
	Cheshire West & Chester	X	X				X		X	X	X					
	Knowsley	X		X	X			X	X	X	X					
	Lancashire	X	X	X	X				X				X			
	Liverpool	X	X	X	X	X	X		X	X	X		X			
	Manchester	X	X	X	X		X		X			X	X	X		
	St Helens			X												
	Stockport	X	X		X				X				X			
	Tameside	X			X					X			X			
	Trafford	X	X		X					X			X			
	Warrington & Halton	X	X	X	X				X		X		X			
	Wigan	X	X		X				X		X					
	Wirral	X	X	X	X				X				X			
CENTSA	Coventry	X	X	X	X				X			X	X			
	Dudley				X				X				X			
	Sandwell	X		X	X				X				X			
	Stoke on Trent	X	X		X		X		X				X			
	Walsall	X					X				X		X			
	Warwickshire	X	X				X		X				X			
	Wolverhampton	X		X	X				X		X					
	Worcestershire	X	X	X	X				X				X			
WHOTS	Blaenau Gwent	X	X	X	X				X				X			
	Bridgend	X	X	X	X				X				X			
	Caerphilly	X			X				X				X			
	Carmarthenshire	X	X	X	X		X	X	X	X	X	X	X			
	Flintshire	X														
	Isle of Anglesey	X	X		X								X			
	Merthyr Tydfil	X								X			X			
	Newport			X	X								X			
	Rhondda Cynon Taff			X	X		X		X		X		X		X	
	Vale of Glamorgan								X				X			
SWERCOTS	Cornwall		X				X		X		X		X			
	Devon	X	X		X			X		X	X		X			
	Dorset	X	X	X	X		X	X	X		X	X		X		
	Gloucestershire	X	X	X	X			X	X		X		X			
	Poole	X	X		X				X				X			
	South Gloucestershire	X	X						X		X		X			
	Swindon	X														
	Wiltshire	X											X			
NETSA	Stockton-on-Tees	X	X		X		X		X		X		X			
Yorks/Humbs	Hull	X		X									X	X		
	Lincolnshire	X	X	X	X		X		X	X			X			
	North Lincolnshire				X				X				X			
	North Yorkshire	X	X	X	X		X	X	X	X	X		X			
	WYJS	X	X	X	X		X		X			X	X			

LOCATIONS WHERE TS INVESTIGATED COUNTERFEIT/PIRATED GOODS		83	58	56	77	2	34	11	65	12	27	13	81	7	4	2
		Outdoor Markets	Car Boot Sales	On the street	Ordinary shops	Pharmacies	Pubs/clubs	Door-door sales	Private residences	Factories	Workplaces	Festivals/Music venues	Via the Internet	Postal hubs	UK ferry/Shipping ports	UK airports
	York	X	X	X					X							
TSEM	Derby City	X	X													
	Derbyshire	X	X		X		X		X				X			
	Leicestershire	X	X		X		X		X		X		X			X
	Northamptonshire	X	X	X	X		X		X		X	X	X			
	Nottinghamshire	X	X	X	X		X		X	X	X		X			X
EETSA	Essex	X	X	X	X		X		X	X	X	X	X		X	
	Hertfordshire	X	X		X		X		X		X	X				
	Luton	X		X	X		X									
	Suffolk	X	X	X	X			X	X		X	X	X		X	
LOTSA	Bexley			X					X							
	Croydon	X		X	X				X				X			
	Greenwich	X	X		X				X							
	Islington	X			X											
	Lambeth	X		X	X								X			
	Merton	X	X	X	X			X					X			
	Richmond	X		X	X				X				X			
TSSE	Hampshire	X	X						X				X	X		
	Isle of Wight	X	X									X	X			
	Medway	X	X	X	X		X								X	
	Oxfordshire	X	X	X	X								X			
	Portsmouth						X				X		X			
	Reading	X		X			X		X			X	X			
	Slough	X		X	X								X			
	Surrey	X	X		X				X				X			
	West Sussex	X			X				X				X			
Other Miscellaneous	Anon 1	X	X	X	X		X		X	X			X	X		
	Anon 2	X		X	X				X				X			
	Anon 3	X			X											
	Anon 4	X	X	X												
	Anon 5	X	X	X				X	X				X			
	Anon 6	X	X		X				X				X			
	Anon 7	X		X	X		X						X			
	Anon 8															
	Anon 9	X		X	X		X		X				X			
	Anon 10	X		X	X				X				X			
	Anon 11	X	X		X		X						X			
	Anon 12	X	X	X	X				X				X			
	Anon 13	X		X	X											
	Anon 14	X	X		X								X			
		83	58	56	77	2	34	11	65	12	27	13	81	7	4	2

These figures show that investigations at markets and car boot sales continued to be a major area of investigation for trading standards. Shops (74%) and private residences also featured strongly. 80% of respondents had investigated fake and pirated goods at markets, although this overall figure masks some considerable variances across the regions although, for example, in Scotland only 33% of the respondents had investigated at markets during the period.

Investigations at car boot sales were less common (56% of respondents overall).

Just over 50% of authorities reported investigations of street sales, while 26% reported that they had investigated IP crime in workplace environments. There were a small minority that reported investigations at take aways, agricultural shows, squat shop, wholesalers, sporting events and indoor market stalls.

A high proportion (78%) of respondents said that they had investigated IP crime over the internet during the period. This is a likely reflection of the considerable role that the internet plays in IP crime – and it is notable that no real variances were detected across the regions.

The responses to the survey highlighted that most respondents were carrying out investigations across a broad range of locations. 62% of respondents had investigated in five or more different types of locations – while only 15 respondents (14%) had investigated in no more than two different types of location.

How many different types of locations TS investigated in	Actual (104)	%
0-2	15	14%
3-4	25	24%
5-6	42	40%
7-8	12	12%
9-10	8	8%
11+	2	2%



### C. Coordinated working

The 104 authorities that responded to the IPO survey identified a wide range of organisations that they had been working with over the period, highlighting the considerable volume of co-ordination that is taking place.

Most respondents had worked with another trading standards service over the period (85% of respondents) and almost all had worked with the police (92%). In many instances all respondents within the region had worked with the police but the overall average was reduced due to the fact that a few regions had much less coordination with police colleagues.

		COORDINATED WORKING 2009-10																				
		87	95	70	25	2	26	13	23	53	73	58	16	12	1	17	44	14	23	25	2	69
TS Region	TS Authority	Other TS authorities	Police	HMRC	UKBA	Home Office	DWP	VOSA	IPO	BPI	FACT	ELSPA	FAST	PRS for Music	IFPI	IFSP	ACG	UKIS	DVLA	REACT	BSA	Rights Holders
SCOTSS	Aberdeen	X	X	X	X						X											X
	Dumfries & Galloway	X	X							X	X						X					X
	Dundee City	X	X	X			X			X	X	X				X						X
	East Renfrewshire	X	X					X														
	Glasgow	X	X	X	X										X							
	Inverclyde;	X	X	X													X				X	
	Moray	X																				X
	North Lanarkshire	X	X	X						X		X					X	X				
	Orkney Islands	X																				X
	Perth & Kinross	X																				X
	Scottish Borders																					X
	South Lanarkshire	X	X	X	X						X	X										X
	Stirling & Clackmannanshire	X	X	X						X	X	X	X			X						
	West Dunbarton	X	X	X						X	X	X										
	West Lothian	X	X																			X
TSNW	Blackburn with Darwen	X	X	X	X		X	X	X		X		X				X	X	X	X		X
	Blackpool (paper)	X	X	X			X	X		X	X	X		X			X				X	X
	Bolton	X	X	X						X	X											X
	Bury	X	X	X						X	X	X									X	X
	Cheshire East		X							X	X											X
	Cheshire West & Chester	X	X	X			X		X	X	X						X					X
	Knowsley	X	X	X						X	X	X		X								
	Lancashire	X	X	X			X			X	X						X					X
	Liverpool	X	X	X	X		X		X	X	X	X	X	X			X	X	X		X	X
	Manchester	X	X	X	X					X	X	X				X	X				X	X
	St Helens		X								X											X
	Stockport	X	X	X			X	X		X	X	X							X			X
	Tameside	X	X	X						X	X						X		X	X		X
	Trafford		X	X								X										
	Warrington & Halton	X	X	X			X				X	X	X	X			X					
	Wigan		X	X							X	X									X	X
	Wirral	X	X	X	X		X			X	X	X				X						X
CENTSA	Coventry	X	X	X								X			X	X						
	Dudley	X	X	X			X				X	X										
	Sandwell	X	X	X							X	X										
	Stoke on Trent	X	X	X	X				X		X	X							X			
	Walsall	X	X	X	X				X		X	X	X				X					
	Warwickshire	X	X	X	X		X	X	X	X	X	X						X	X			X
	Wolverhampton	X	X	X						X	X	X	X				X		X			X
	Worcestershire	X	X	X							X	X										X
WHOTS	Blaenau Gwent	X	X				X		X	X	X	X					X				X	
	Bridgend	X	X					X	X	X		X										X
	Caerphilly	X	X	X						X	X										X	X
	Carmarthenshire	X	X	X	X		X	X		X	X	X	X	X		X	X	X	X	X	X	X
	Flintshire		X									X										X
	Isle of Anglesey	X	X	X							X	X				X	X					X
	Merthyr Tydfil	X	X						X	X	X	X										X
	Newport	X	X	X		X			X	X	X	X		X				X				X
	Rhondda Cynon Taff	X	X	X	X		X		X	X	X	X				X	X		X			X
	Vale of Glamorgan		X																			X
SWERCOTS	Cornwall	X	X	X						X	X											
	Devon	X	X								X	X	X	X		X			X	X		X
	Dorset	X	X	X			X				X	X					X				X	X
	Gloucestershire	X	X	X					X		X	X					X				X	X
	Poole	X	X																			X

COORDINATED WORKING 2009-10		87	95	70	25	2	26	13	23	53	73	58	16	12	1	17	44	14	23	25	2	69	
		Other TS authorities	Police	HMRC	UKBA	Home Office	DWP	VOSA	IPO	BPI	FACT	ELSPA	FAST	PRS for Music	IFPI	IFSP	ACG	UKIS	DVLA	REACT	BSA	Rights Holders	
	South Gloucestershire	X	X							X	X	X											
	Swindon	X	X																				X
	Wiltshire																						X
NETSA	Stockton-on-Tees	X	X	X							X	X				X							X
Yorks/Humbs	Hull		X	X							X	X		X							X		X
	Lincolnshire	X	X	X						X	X	X											X
	North Lincolnshire		X	X			X				X	X	X				X						X
	North Yorkshire	X	X				X	X	X	X	X	X					X		X	X			
	WYJS	X	X	X	X		X	X	X	X	X	X	X					X	X	X			
	York	X	X																				
TSEM	Derby City	X	X	X	X					X	X	X		X			X						X
	Derbyshire	X	X	X						X	X	X		X			X		X				X
	Leicestershire	X	X	X	X		X			X	X	X		X		X	X				X		X
	Northamptonshire	X	X	X	X					X	X	X		X			X	X					X
	Nottinghamshire	X	X	X	X					X	X	X					X	X	X				X
EETSA	Essex	X	X	X	X		X	X	X	X	X	X					X	X	X	X			X
	Hertfordshire	X	X	X	X		X	X		X	X	X				X	X	X	X				X
	Luton		X																				X
	Suffolk	X	X	X	X				X		X	X	X				X	X					X
LOTSA	Bexley		X	X							X						X		X				X
	Croydon	X	X	X					X		X	X				X	X			X			X
	Greenwich	X	X							X	X		X			X				X			X
	Islington	X	X	X																			X
	Lambeth		X	X		X	X				X			X				X		X			
	Merton	X	X							X													
	Richmond	X	X																				X
TSSE	Hampshire	X	X	X	X					X	X	X					X		X	X			X
	Isle of Wight	X	X	X			X			X	X						X		X				X
	Medway	X	X	X	X					X	X	X		X			X	X					X
	Oxfordshire	X	X	X						X	X	X					X		X				X
	Portsmouth	X	X	X								X											X
	Reading	X	X	X			X			X	X	X	X				X					X	X
	Slough	X	X	X						X	X	X											X
	Surrey	X	X							X	X	X	X			X					X		X
	West Sussex		X							X	X	X											X
Other Misc	Anon 8	X								X									X				X
	Anon 11	X	X							X	X						X						X
	Anon 9		X	X				X		X	X	X		X						X			X
	Anon 1	X	X	X	X					X	X	X	X						X				X
	Anon 10	X	X	X			X					X					X		X	X			
	Anon 3	X	X								X	X					X		X				X
	Anon 6	X	X	X						X	X	X					X						X
	Anon 4	X															X		X				
	Anon 2	X	X							X	X						X						X
	Anon 12	X	X		X						X						X						
	Anon 14	X	X	X																			X
	Anon 13		X		X		X		X	X		X					X			X			X
	Anon 7	X	X	X	X		X			X	X												X
	Anon 5	X	X	X						X	X						X						X

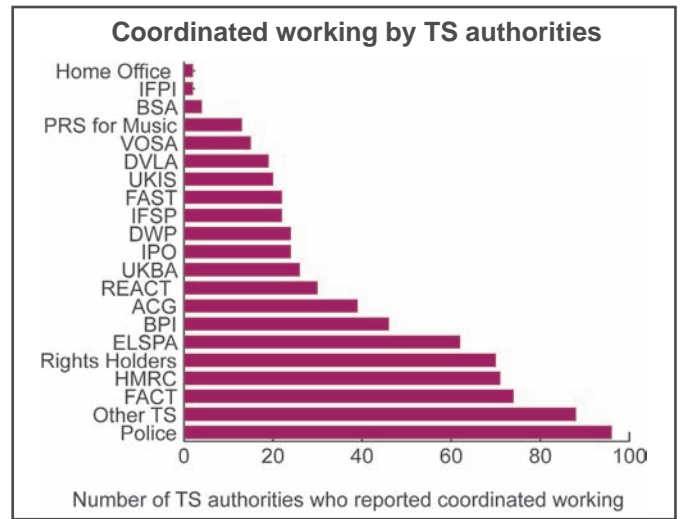
While most regions had worked closely with HMRC during the period, the figure for the South West region (SWERCOTS) was quite low, although this could be due to the type of products that were investigated as they reported limited activity on alcohol and tobacco.

24 authorities reported that they had worked with the Department of Work and Pensions which could be a reflection of the growing recognition of links between IP crime and benefit fraud. A third of those respondents were from the North West region (TSNW). There were 15 authorities that reported working with Vehicle and Operator Services Agency (VOSA) and 19 with Driver and Vehicle Licensing Agency (DVLA) this equates to 14% and 18% respectively of those that responded.

Response to the survey indicated that only 24 out of the 104 authorities that responded had worked with the IPO Intelligence Hub over the period. This number seems quite low as the IPO's Intelligence Hub has been working extensively with trading standards not just direct with the trading standards officers but with the Regional Intelligence Officers.

86% of those that responded had worked with at least one of BPI, FACT, ELSPA, PRS for Music and IFPI over the period. This is a considerably high figure that shows the level of coordinated working with industry is high. 71% of respondents had worked with FACT. Only 15 of the 104 respondents had not worked with the optical media industry with regional variations being quite evident – as almost half of those were from the Scotland region (SCOTSS). This correlates with responses to the range of goods being investigated – where figures for CDs, DVDs etc were lower in Scotland than in other regions.

In terms of software, the Federation Against Software Theft (FAST) and BSA had worked with 25 authorities during the reported period, while 39 respondents had worked with ACG. Overall 70 respondents (67%) said that they had worked with rights holders – although there is likely to be some overlap here with figures for the anti-piracy units and software organisations.<sup>43</sup>



The responses highlighted that most respondents were working with a diverse range of partners in tackling IP crime. 79% had worked with five or more different partners with 35 respondents identifying between nine and 17 different partners.

Number of different People TS had worked with	Actuals	Percentage
0-4	22	21%
5-8	47	45%
9-12	26	25%
13-16	8	8%
17+	1	1%

#### **Comparisons with 2008/09 figures**

45 authorities responded in 2008/09 and a comparison of the responses shows a considerable rise in coordinated working in some key areas. In 2008/09 only 10 respondents said that they had worked with other trading standards services on IP crime investigations (22% as compared to 85% in 2009/10). Police numbers were high in both years (91% of respondents as compared with 92% this year).

The percentage of respondents who said that they had worked with rights holders had also risen considerably when compared with 2008/09 – only 27% had worked with BPI in 2008/09 as compared to 44% in 2009/10. FACT also saw a rise, from 44% to 71%.

<sup>43</sup> The survey questionnaire did not specifically exclude anti-piracy units like BPI etc from the term 'rights holder' for this question so the extent of overlap is unclear.

	% of TS 2008/09	% of TS 2009/10
BPI	27	44
FACT	44	71
ELSPA	20	60
ACG	4	38
RIGHTS HOLDER	29	67

## D. Levels of IP infringement

The questionnaire asked respondents to state whether or not they believed that the level of IP infringement, in their area, had increased or decreased.

42% of those that responded believed that the level of IP infringement in their area had increased and 34% believed that it had decreased. Out of those who felt that infringement had increased, the majority linked this view to increasing levels of internet piracy and the ease of access to import and buy goods from overseas, particularly China. The current economic climate and unemployment were also listed as possible factors, with individuals not normally involved in these sorts of activities being enticed by the lucrative prospects it offers.

Those who considered that IP infringement had decreased over the period said that they had received less complaints and some thought that the closure of a particular market had a notable impact. While some noted that there had been a fall in the number of complaints about physical goods they had noted an increase in complaints on digital infringement.

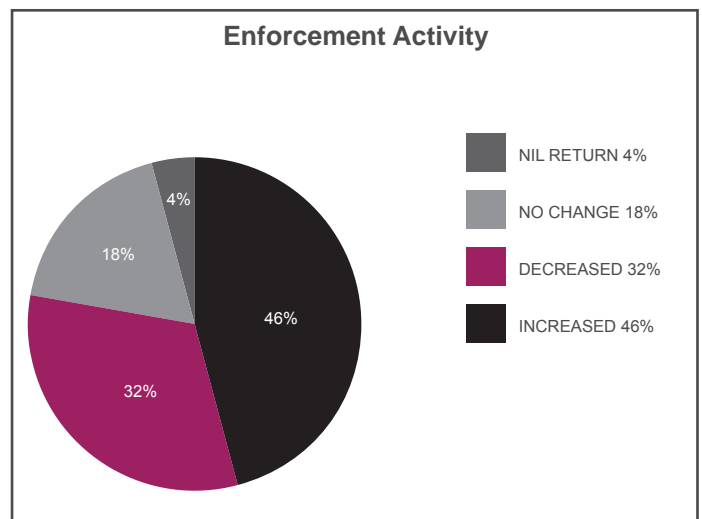
13% of respondents indicated that there was no change from the previous year, while 10% did not feel able to comment on the levels.

## E. Levels of IP Enforcement

Respondents were asked to comment on the levels of IP enforcement that they had undertaken during the period. The overall indication from the responses is that enforcement activity increased over the period. In many instances respondents linked this increase to the development of successful partnerships or to the input of a dedicated team that works solely for IP related issues.

46% of respondents reported that there was an increase and 32% reported a decrease in the levels of IP enforcement. 18% reported that it remained the same with a nil return from 4%.

The majority of those that reported a decrease in enforcement activity said that this was due to the loss of resources, staff or financial constraints. However some suggested that there had been fewer complaints. In one particular instance the complaints were considered to have reduced due to a problem market site being closed down for re-development, but that the market had now moved to a new site and problems were beginning to surface again.



	Increase	Decrease	Same	Nil Return
SCOTSS	3	7	4	1
TSNW	6	9	1	1
CENTSA	6	0	2	0
WHOTS	5	3	2	0
SWERCOTS	2	3	2	1
NETSA	1	0	0	0
YORKS/HUMB	3	3	0	0
TSEM	1	1	3	0
EETSA	3	0	1	0
LOTS	4	1	2	0
TSSE	6	2	1	0
ANON	7	5	1	1
	47 (46%)	34 (32%)	19 (18%)	4 (4%)

## F. Training

Of the 104 authorities that responded to the questionnaire 71% reported that officers in their authority had received some IP training during the fiscal year 2009-10. Note the question did not ask them to identify how many officers had received training. Internet investigations covered 5% of the training with other courses including surveillance training, counterfeit tobacco products, and courses provided by ELSPA, IPO and HMRC. Where details were provided, 7% had received training at ACG conferences and roadshows, and a further 6.5% were either working towards or had attained the IP module of the Diploma in Consumer Affairs and Trading Standards (DCATS).

14% of those who responded to the questionnaire had delivered training. This included presentations at ACG conferences and road shows as well as presentations to external organisations including the police.

## G. Resources

As part of the questionnaire the respondents were asked to give details of the resources that were dedicated to the enforcement of IP crime during the period 2009-10. Nationally, out of those that provided data, it was reported that on average approximately 190 staff days, per region, were dedicated to the enforcement of IP crime.

The results show that resources varied considerably. One authority reported 1,000 staff days per year whilst others indicated that no time was dedicated to the enforcement of IP crime. The respondents that tended to dedicate more time to IP crime employed enforcement officers who worked solely on IP related issues. The vast majority who responded had predominately used a combination of senior and junior officers that deal with IP on an ad hoc basis.

## H. Proactive monitoring of the Internet

As part of the questionnaire the respondents were asked if they undertook any proactive online monitoring of IP infringements. The following table shows the results.

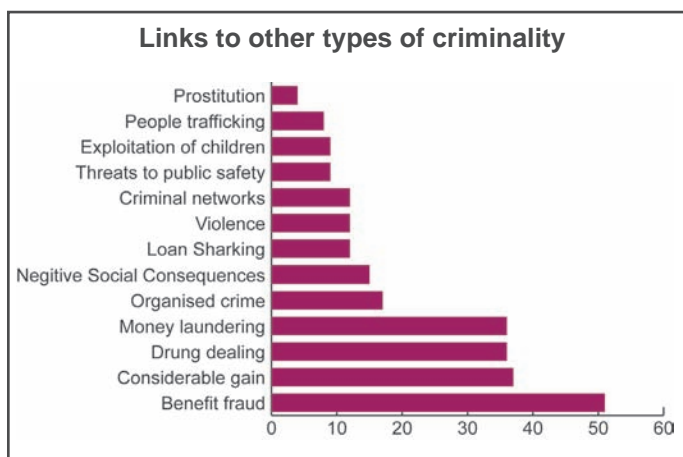
	Yes	No	Nil Return
SCOTSS	7	7	1
TSNW	8	9	
CENTSA	6	2	
WHOTS	9	1	
SWERCOTS	5	3	
NETSA	1		
YORKS/HUMB	2	4	
TSEM	4	1	
EETSA	4	0	
LOTSAs	3	4	
TSSE	6	3	
ANON	6	8	
TOTAL	61	42	1

The results indicate that 95% of those who had been undertaking this work had been looking at online auction sites.

## I. Links to other criminality

Respondents were asked to give details of any other type of criminality that was found linked to the investigations they dealt with related to IP crime. Of those that responded 45% had found that benefit fraud was linked with IP crime. Money laundering and drug dealing were also identified by many respondents.

The following chart identifies the number of authorities that had found links to other types of criminality.



# Glossary

## **AAIPT**

The Alliance Against IP Theft

## **ACG**

The Anti-Counterfeiting Group

## **AFI**

Accredited Financial Investigator

## **AGMA**

The Alliance for Grey Market and Counterfeit Abatement

## **ANPR**

Automatic Number Plate Recognition

## **ARA**

Assets Recovery Agency

## **BAA**

British Airports Authority

## **BASCAP**

The Business Action to Stop Counterfeiting & Piracy

## **BBC**

British Broadcasting Corporation

## **BEAMA**

The British Electrotechnical and Allied Manufacturers Association

## **BIS**

The Department of Business, Innovation and Skills

## **BPI**

The British Recorded Music Industry

## **BSA**

Business Software Alliance

## **BVA**

British Video Association

## **CD**

Compact disc

## **CDPA**

The Copyright, Designs and Patents Act 1988

## **CENTSA**

Central England Trading Standards Authorities

## **DCATS**

Diploma in Consumer Affairs and Trading Standards

## **DVD**

Digital video/versatile disc

## **DVDR**

A DVD recordable format

## **DVLA**

Driver and Vehicle Licensing Agency

## **EETSA**

East of England Trading Standards Association

## **eGame**

Electronic game

## **ELSPA**

The Entertainment and Leisure Software Publishers Association

## **EU**

The European Union

## **FACT**

The Federation Against Copyright Theft

## **FAST**

The Federation Against Software Theft

## **FDA**

U.S. Food and Drug Administration

## **FI**

Financial investigators

## **FSA**

The Food Standards Agency

## **GAO**

US Government Accountability Office

## **HMRC**

Her Majesty's Revenue & Customs

## **The Hub**

Intellectual Property Office's Intelligence Hub

## **IDC**

International Data Corporation

**IFPI**  
International Federation of the Phonographic Industry

**IFSP**  
International Federation of Spirits Producers

**IMPACT**  
International Medical Products Anti-Counterfeiting Taskforce

**IP**  
Intellectual property

**IPID**  
The national IP crime Intelligence Database

**IPO**  
Intellectual Property Office

**IPR**  
Intellectual property right

**LACORS**  
The Local Authorities Coordinators of Regulatory Services - now known as Local Government Regulation

**LGA**  
Local Government Association

**LG Regulation**  
Local Government Regulation (formerly known as LACORS)

**LOTSAs**  
The London Trading Standards Authorities Group

**MHRA**  
Medicines and Healthcare products Regulatory Agency

**NETSA**  
North East [of England] Trading Standards Association

**NPIA**  
National Policing Improvement Agency

**NHS**  
National Health Service

**OECD**  
Organisation for Economic Co-operation and

Development

**OFT**  
The Office of Fair Trading

**P2P**  
Peer-to-peer

**PA**  
The Publishers Association

**PACE**  
Police and Criminal Evidence Act 1984

**PCeU**  
Metropolitan Police's Central e-Crime Unit

**PLS**  
Publishers Licensing Society

**POAS**  
Permanent Observatory on Anti-counterfeiting Systems

**PoCA**  
Proceeds of Crime Act 2002

**The Portal**  
The Publishers Associations' Copyright Infringement Portal

**RAM**  
Random Access Memory

**The Report**  
IP Crime Report 2009/10

**SCDEA**  
The Scottish Crime and Drug Enforcement Agency

**SCOTSS**  
The Society of Chief Officers of Trading Standards in Scotland

**SMEs**  
Small and medium enterprises

**SOC Groups**  
Serious and organised crime groups

**SOCA**  
The Serious Organised Crime Agency

**SROC**

The Sports Rights Owners Coalition

**SWERCOTS**

Trading Standards Partnership for the South West of England

**TMA**

Trade Marks Act 1994

**TS**

Trading standards

**TSEM**

Trading Standards East Midlands

**TSI**

Trading Standards Institute

**TSNW**

Trading Standards North West [of England]

**TSSE**

Trading Standards South East [of England]

**UKBA**

UK Border Agency

**UKEA**

The UK Electronics Alliance

**UNICRI**

The United Nations Interregional Crime and Justice Research Institute

**UKIS**

UK Immigration Service

**URL**

Uniform Resource Locator

**VOSA**

Vehicle and Operator Services Agency

**WHO**

World Health Organization

**WHOTS**

Wales Heads of Trading Standards

**WTTB**

Worldwide Track and Trace Bank

**YORKS/HUMB**

Yorkshire and the Humber Trading Standards Group

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Rogers Review 2007; March 2007 – Cabinet Office

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Digital Music Report; January 2010 – IFPI

Report on estimated impact of counterfeiting on governments & consumers; May 2009 –The Business Action to Stop Counterfeiting & Piracy (BASCAP)

Building a digital economy; The importance of saving jobs in the creative industries: March 2010 – International Chamber of Commerce

The Real Deal Campaign; June 2009 – The Industry Trust for IP Awareness

The Digital Economy Act 2010; April 2010 – Department for Business, Innovation and Skills.

Background Report on Digital Piracy of Sporting Events; November 2008- OECD

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Film Piracy, Organized Crime and Terrorism 2009 – RAND

National IP Crime Strategy; 2004 – Intellectual Property Office

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Extending our reach: a comprehensive approach to tackling organised crime:April 2010 – Home Office and Cabinet Office

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The Counterfeit Electronic Components Minefield; updated February 2010 – The Component Obsolescence Group





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