

MINISTRY OF INDUSTRY, TRADE & COOPERATIVES

STATE DEPARTMENT FOR TRADE
OFFICE OF THE PRINCIPAL SECRETARY



REPUBLIC OF KENYA



MULTI-AGENCY ANTI-ILLEGAL TRADE OUTREACH
STAKEHOLDERS: - SDT, ACA, KRA, KEBS, KECOBO & PPB





Message from

DR CHRIS KIPTOO,

Principal Secretary State Department for Trade,
Ministry of Industry, Trade and Cooperatives

The Government of Kenya is unrelenting in combating illicit trade in Kenya, being a major hindrance to competitive business in the country. I appreciate the President for the order that the enforcement agencies work jointly in conducting inspections and seizures. This will enhance effectiveness and will go a long way in creating a conducive environment for both domestic and foreign investments. I assure all investors locally and internationally that the Kenya Government only advocates for fair trade practices and is committed to it. Subsequently, with my department being at the fore front an outreach program has been rolled out to engage the various stakeholders towards ensuring this common goal is met. These include the manufacturers, importers, traders and other players at different levels of the value chain. I encourage the government agencies to work together in the outreach program in order to empower the public on fair business practices and the legal framework governing the different forms of illicit trade. To enhance the outreach a coordination centre has been set up at the SDT, 21st floor and members of the public are welcome to share information and / or acquire insight with regard to any form of illicit trade. I also encourage the public to reach out to the respective agencies with regard to their mandates.

As Kenya endeavours to actualize her Big Four agenda and eventually the Vision 2030; illicit trade remains a risk than can easily thwart the efforts. It has both direct and indirect effects on the various sectors especially manufacturing which is the engine around which health, food security and housing all revolve. It is therefore imperative that all forms of illicit trade are eliminated in the shortest time possible, while ensuring maximization of resources. The Multi-Agency initiative is simply an arrangement where the government agencies are working together, and where the enforcement and outreach Multi-Agency Anti-Illicit Teams' play a complementary role to each other".

I look forward to the Kenyan market with only legitimate products and businesses competing on a fair level ground. I welcome you to the 'Multi-Agency Anti-Illicit House' at the 2nd Kenya Trade week expo, KICC grounds and to Day 3 conference proceedings where combating the illicit trade menace is the subject of focus.



FREQUENTLY ASKED QUESTIONS

1. Illicit Goods, Counterfeits and Pirated Products on the Market
2. What are illicit goods?
3. What are the different forms of illicit trade?
4. What are counterfeits?
5. Which are the most counterfeited Goods?
6. How do you recognize counterfeit products in the market?
7. What are pirated products ("pirates")?
8. How do you recognize pirated products in the market?
9. What should you do if you suspect to have bought a counterfeit, pirated or a product conveyed through illicit trade?
10. What actions is the Kenya Government already taking against illicit trade?
11. Why Standards?
12. Why the multi – agency approach in combating illicit trade?
13. What is the role of the Multi-Agency Task Force?

How can I share information / report on illicit trade activities?

QUESTIONS AND ANSWERS

1. What is (are) illicit trade (goods)?

There is no single universally recognised definition for illicit trade, as the concept encompasses a wide range of issues. Illicit trade comprises both trade in illegal goods and services, as well as instances where normally legal goods are traded illegally.

Generally, it may be defined as any form of trade that infringes the rules, laws, regulations, licenses, taxation systems, and all procedures that countries use to organise trade, protect citizens, raise standards of living and enforce codes of ethics. The concept extends to money, goods or value gained from illegal or otherwise unethical activity; and includes all actions or conduct intended to facilitate such activities.

2. What are the different forms of illicit trade?

Technical terms such as counterfeit, contraband, undervalued, Unaccustomed, substandard, dumped, subsidized goods etc. are used to describe the various forms of illicit trade. These terms are often mixed up by users and it is apt to provide a brief description of each.

Counterfeit goods are fake copies of real products deceptively passed off as genuine. People knowingly or unknowingly buy or sell counterfeits. Other related terms for counterfeit are replica, forgery, pirated, unlicensed, trademark infringement, trademark dilution, look-alike, etc.



Piracy is the unauthorized reproduction, sale or use of another's copyrighted work such as a book, lyric, or software. piracy is generally called any unauthorized use of copyright works. Particular names, such as grey piracy or internet piracy, are used for individual categories of unauthorized use of copyright works.

Undervalued goods are those goods where the importer or shipper conceals the real cost of a product so that customs duties and taxes are assessed on a lower amount. (a fake price is used on the invoice for customs clearance);

Unaccustomed goods are those that have not passed through customs (usually smuggled);

Contraband goods are goods prohibited by law from being imported or exported;

Substandard goods are goods that do not comply with the requirements of Kenya Standards or approved specifications by KEBS.

Dumped goods are goods sold at a price lower than the selling price in the exporting country; and

Subsidized goods are goods produced with financial support from government or public body to keep their prices low. Due to this conferred benefit, they are cheaper in the market compared to products produced without similar support. Usually, domestic industries in the country of export are unable to compete with subsidised goods.

Smuggling: To convey (someone or something) somewhere secretly and unlawfully Other forms of illicit activities related to importation of goods are:

- i. Being in possession of foreign registered vehicles without authorization,
- ii. Diversion of transit/export goods including dumping of petroleum products.
- iii. Handling excisable goods without license and excise stamps

3. What are counterfeits?

Counterfeits or counterfeit products are products that are designated with someone else's protected trademark without authorization, most often imitating the genuine product designated with a trademark in the way to make an impression at first sight that it is a matter of the genuine product. Placing counterfeits on the market represents violation of the provisions of the Trademarks Act and other regulations governing the trademark rights. In spite of the measures undertaken against this global problem, counterfeit products can appear in trade not only on the markets of undeveloped countries but on the markets of highly developed countries as well.

4. Which are the most counterfeited Goods?

Every brand and type of item is vulnerable for counterfeiting. Trendy and expensive items, fast moving products are highly desirable and fall prey to counterfeiting over and over again.

Goods that are commonly counterfeited include electronics, motor-vehicle spare parts, stationeries, food and beverages, LPG, movies and music DVD's, and petroleum products, Luxury Goods and Fashion Apparel, Phones and Computer Accessories etc.

5. How do you recognize counterfeit products in the market?

A consumer can protect himself from buying a counterfeit (a product designated with a protected trademark without authorization) primarily by choosing a point of sale. Genuine products with protected trademarks are not generally being sold on benches, out in the open and on similar places (fairs, markets and the like). Poor quality of production and low price also indicate the possibility of a product being a counterfeit. The origin of a product is also one of potential indicators, and it can be established by checking a product notification originally sewn in by the manufacturer or enclosed to the product.

6. What are pirated products?

Pirated products are products with musical (audio) works, cinematographic (audio- visual) or other copyright works recorded on sound recording media and/or pictures without the author's or his authorized representative's authorization. Placing pirated products on the market represents violation of the provisions of the Copyright Act.

7. How do you recognize pirated products on the market?

Consumers can recognize pirated products by the following factors:

- i. A place of buying a sound recording media can indicate that it is a matter of a pirated product. If such products are being sold on the streets, fairs, markets or other occasional sales, there is a possibility of a pirated product being offered for sale;
- ii. Low price of the product can be one of the indicators to suspect the product's originality;
- iii. Musical works are currently on the market as recorded on optical discs (CD, DVD etc.) whereby none of the renowned legal producers from musical industry produces or sells his products on optical discs that enable recording of music i.e. the ones named CD-R and DVD-R. Any product on such media therefore needs to be deemed suspicious;
- iv. The majority of pirated products can be recognized by the outside layout. Some of the signs of pirated products are: printing and packaging are of low quality (often a photocopy of the cover), no reference to the record company, no copyright warning, no list of songs, spelling and grammar errors can be perceived on the cover. A buyer can recognize a pirated product by the aforementioned characteristics on the outside. Experts can recognize pirated products by a number of other signs that are not publicly announced by manufacturers of genuine products in order to avoid misuse with production of pirated products.

8. What should you do if you suspect to have bought a counterfeit product, pirated product or a product conveyed through illicit trade?

If a consumer suspects to have bought a counterfeit or a pirated product, or that such product is out on the market, he/she may report to any nearest law enforcement agency such as the police, Anti-Counterfeit Agency, Kenya Copyright Board, Kenya Bureau of Standards, Kenya Revenue Authority etc.

9. What action is the Kenya Government taking against illicit trade?

Government is engaging in the review of laws and regulations to provide for more deterrent penalties so as to make it more prohibitive to engage in illicit trade activities.

Government has also realised that curbing all forms of illicit trade require the coordinated efforts of different agencies, thus the multi – agency approach in combating illicit trade. A multi-Agency task force has therefore been set up to strengthen interventions towards curbing the vice. Government is therefore seeking stronger administrative cooperation between authorities at all levels in the fight against illicit trade. The Multi - Agency Task force shall facilitate the rapid exchange of information and enhance the speed of enforcement.

10. Why Standards?

KEBS in collaboration of stakeholders develops documents that provide requirements, specifications, guidelines or characteristics that can be used consistently to ensure that materials, products, processes and services are fit for their purpose. KEBS has developed 9675 Kenya Standards which you can access through Kenya Standards Catalogue and buy online from the webstore on www.kebs.org.

These standards are used as a reference to gauge the quality of products with an aim of protecting consumer health, safety and the environment. Goods inspected and certified (complying with Kenya Standards) by KEBS are issued with a Mark of Quality such as the "Standardization Mark (SM), Diamond Mark (DM) and the Import Standardization Mark (ISM)".

In the context of the standards Act, illicit trade involves the intentional placing of substandard goods in the market including prohibited products.

Consumers can an sms to verify the marks of quality with KEBS as follows:

SMS FORMAT:

Send sms message: **ISM#UCR# to 20023 or SM#number to 20023 or DM#number to 20023**

11. Why the multi – agency approach in combating illicit trade?

This is where the different government institutions mandated to deal with the various forms of illicit trade come together to fight the menace in unity. This applies the slogan that 'United we Stand, Divided we Break'. Though different, the various forms of illicit trade are intertwined by virtue of the perpetrators or mode of conveyancing in the market either at production, description, transportation or exposure for sale. A counterfeit maybe substandard, may have evaded duty or is under declared, may have been smuggled into the country etc.; thus contravening all the laws applicable.

A Multi-Agency Task Force is currently active on enforcement matters, under the leadership of Wanyama Musiambo, Deputy Head Public Service under presidential directive. An outreach arm is soon rolling out, coordinated at the State Department for Trade, under Principal Secretary Dr Chris Kiptoo.

12. What is the role of the Multi-Agency Task Force?

- Strengthening the coordination of agencies mandated to fight illicit trade for better interventions and enforcement outcomes;
- Promotion of greater public-private cooperation to improve enforcement;
- Monitoring developments in illicit trade and observing how the trade evolves or declines, to enable strengthened measures;
- Fostering Inter-industry dialogues to crack down on the most evident forms of illicit trade, including those on the internet;
- Developing standardized tracking and tracing methods across sectors; and
- Enhancing border measures in multiple ways including improving cross-border cooperation.



13. How can I share information / report on illicit trade activities / support the outreach program?

You can reach the individual institutions or the outreach coordination office through the following channels:

FEEL FREE TO WALK IN TO THE OFFICES

No	Type of illicit trade	Institution	Physical location (HQ, others – see website)	Telephone call (Hotline(S)	EMAIL/Twitter Name / Twitter handle	SMS
1	Counterfeiting	ACA	National Water Building	020-280111	info@aca.go.ke/	NA
2	Sub-standard goods	KEBS	Popo Road, off Mombasa Road	toll free line 1545	E-mail: info@kebs.org or illicit@kebs.org / @KEBS_KE /	20023
3	Uncustomed & others tax related goods	KRA	Times Tower Building	020-310900	cic@kra.go.ke	NA
4	Copyrighting	KECOBO	NHIF Building	070388503	info@copyright.go.ke	
5	Illegal & unauthorized trade in health products & technologies	Pharmacy & Poisons Board (PPB)	Lenana Road Opp. DOD	0720608811	Info@pharmacy-boardkenya.org/ @ppbkenya	
6	Weighing & Measuring related aspects	Weights & Measures / County Weights and Measures Office	Popo Road, South C	+254700 482 438		
7	Multi Agency Anti Illicit Trade Outreach (MAAITO) coordination office	State Department for Trade (SDT) & Govt. Agencies	Tel Posta Towers, 21st Floor	0707-967 057 0731 967 057	@aacakenya	0707-967 057 0731 967 057

