

Counterfeits and Fakes - Obstacles to the success of Big Brands

Abstract

Brands are said to be identification mark of the products of a company. Along with qualities and features of product, sale of a product depends on the consumer awareness of brand, their acceptance, preference or loyalty by customers. With the success of products of some big brands, a parallel world of counterfeits and fakes also develops. These counterfeits just get the benefit of consumer preference towards successful big brands. Counterfeiting increases due to globalization, advanced technologies, consumers' willingness for fake goods, lax regulatory policies and IP regimes. Increase in fakes, counterfeits, spurious and Lookalikes affects the business of big brands. Though attempts have been made at anti-counterfeiting measures, complexity of this problem demands an integrated approach to understand the counterfeiting ecosystem. This paper is an attempt to show the present status of counterfeit sector in India and also to show various actions initiated to combat fakes and counterfeits.

Keywords: Counterfeiting, Spurious, Lookalikes, Anti-counterfeiting.

Introduction

After Industrial Policy in 1991, Our Economy has undergone a number of changes in the last two decades due to privatization, liberalization and globalization. India, being a developing country has a bright future because of high growth rate and all round development of its goods and service industries. All multinational companies focus on India as it is one of the countries having a large prospect of growth. India have second biggest population in the world, as a result of which there is a possibility that companies can easily make their own share in Indian market. Companies compete with each other and they have to manufacture standard quality products to satisfy the needs of consumer. As a result of such competition, our consumer gets the best quality products at a reasonable price. Apart from these positive effects of increased goods and services available to consumers at reasonable price, this exponential growth has also brought some negative effects of fakes, counterfeits, lookalikes and spurious products. These days it has become an increasingly dangerous menace to consumer choices, health and the economy. Though this problem has always existed, but now fakes, counterfeits, lookalike and spurious products have invaded every aspect of our lives. The reports, research papers and other publications available from international bodies are generally on extent of counterfeiting impacting American, European, G20 and other economies. However, almost no work has been done in India to assess the magnitude of challenge posed to multiple sectors of the economy. Only CASCADE of FICCI shows some significant reports on the magnitude and impact of fakes and counterfeit offerings in India.

Even our stakeholders, government and industries taking strong steps to stop these offerings, the scope and scale of the counterfeiting problem remain critical. In fact, available data suggest that the problem becomes worse in the recent times. At present, it is hard to find a single market in almost all economies which do not have counterfeit products. Though this proportion seems to be critical in poor and developing economies, developed countries too are not far behind.

Objective

The principal objective of the paper is to provide the present status of the menace of fakes and counterfeits in Indian markets and its impact on our country. It includes the various significant actions initiated by corporate sector and Government to combat these offerings. The study also suggests some initiatives to stop these offerings.

Research Methodology

The data and information used in study acquired through primary and secondary sources. Primary sources include official gazettes, press

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release or information from the official website of FICCI's CASCADE. Information about the Impact of fakes and counterfeits on various Industrial sectors, sales loss to these sectors and tax loss to government taken from the primary sources. Secondary sources consist of review of published literature including articles from the journals, periodicals, newspapers and related web based sources. Tables, Column chart and Pie charts are used to show the reports such as Sales loss to Corporate Sector and Direct/ Indirect Tax loss to Government

What are Counterfeits and fakes

Counterfeiting is commonly understood as a process of fraudulently manufacturing, altering, or distributing a product that is of lesser value than the genuine product of big brands with the intention of misleading the buyer about the genuineness of product.

To sell a counterfeit, spurious, lookalike or a fake means to sell or market a non-genuine product as a genuine. Generally, such products are sold under the name of a famous manufacturer and an unwary consumer is misleading to believe that the product originates from the same manufacturer. It is nothing but cheating a consumer and making him believe that he is buying the original branded product from the same source of manufacture as he imagines. It is evident that counterfeiting of products continues to be a bane to the Indian economy as well as the world-wide image of the country.

Globalization has brought the positives of increased commercial activities and opened India up for direct foreign investment, which is excellent for the country's economy. However, India's status as a low-cost manufacturing base also opens it up for use by counterfeiters as a prime location for the production of counterfeit goods both for domestic sale and export. Business for the Indian counterfeiters is at an all-time high. These problems are rapidly growing in scale. It is a fast-growing industry that not only makes a huge impact on world trade, but also on life consequences, such as harmful effects on health.

There are some factors that promote fakes and counterfeits offerings in the market. The main factors responsible for spread of counterfeit offerings in the market are:

1. Prospects of High unit profits.
2. large potential market size
3. Tax arbitrage
4. Rise of genuine brand power which can be replicated and copied.
5. Moderate investment and Technology requirements
6. Easy access to various channels of distribution.
7. Ease of concealing operations coupled with poor enforcement.

In addition to these, changing consumer preferences such as high value/price consciousness, low prices of fakes coupled with acceptable perceived quality, low health and safety awareness, low respect for Intellectual Property also play a significant role.

Counterfeit Sector in India

At present counterfeit becomes a menace to global business environment. In 2005, as per the estimates of Organisation for Economic Co-operation

and Development (OECD), international trade in counterfeit and pirated products could have been up to USD 200 billion. Whereas estimates of BASCAP in 2008 shows the impact of counterfeited products on the G20 economies to be US\$ 455 to US\$ 650 billion and projected that by 2015, this impact would rise any-where between US\$ 1,220 to US\$ 1,770 billion.

Indian Market also not free from the menace. The market is flooded with such fake and counterfeit offerings. FICCI's CASCADE (Committee Against Smuggling and Counterfeiting Activities Destroying the Economy) has conducted a study of selected industrial sectors in India to check the current status of counterfeit sector. Their object is to project the economic loss to industry, government and consequent social impact due to counterfeits. The seven sectors selected for this study includes Auto components, alcohol, Computer hardware, FMCG(personal goods), FMCG(packaged food), Mobile phones and Tobacco. As per the reports of this study, The total sales loss to all these industries amounted to Rs 72969 crore in 2012. The total tax loss to government amounted to Rs 26190. Following table clearly shows the reports of this study:

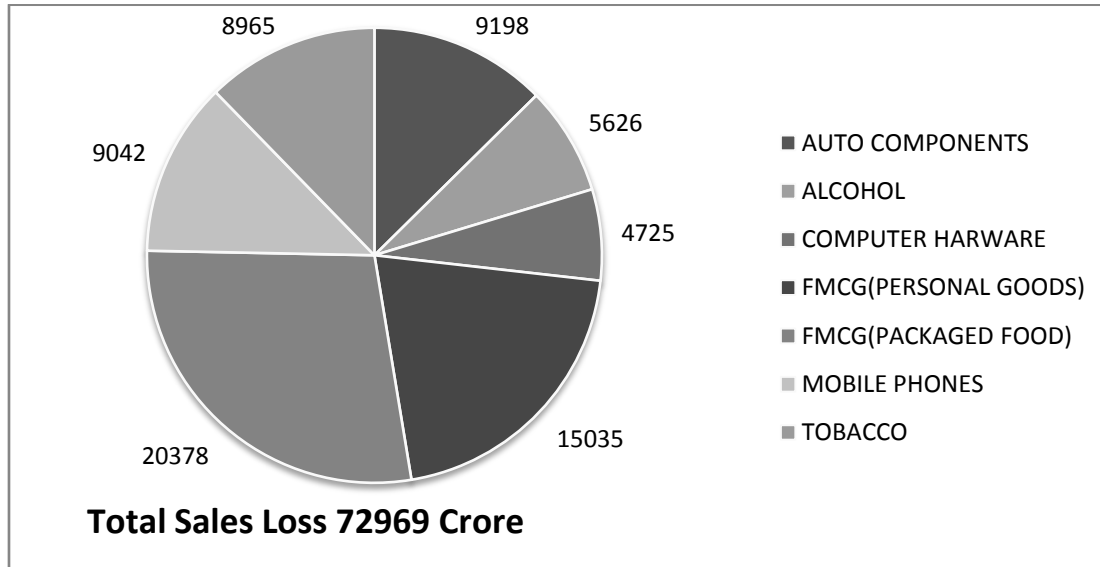
Impact of counterfeits on Industry and Government

Industry Sector	Sales Loss	% Of Counterfeit	Dir. Tax Loss	Ind. Tax Loss	Total Tax Loss
Auto Components	9198	29.6	421	2305	2726
Alcohol	5626	10.2	260	2250	2510
Computer Hardware	4725	26.4	47	1187	1234
Fmcg(Personal Goods)	15035	25.9	867	3779	4646
Fmcg(Packaged Food)	20378	23.4	552	5108	5660
Mobile Phones	9042	20.8	496	2678	3174
Tobacco	8965	15.7	861	5379	6240
Total	72969		3504	22686	26190

Source: **Socio-Economic Impact of Counterfeiting, Smuggling and Tax Evasion in Seven Key Indian Industry Sectors, FICCI's CASCADE, 2012**
Impact on Industry

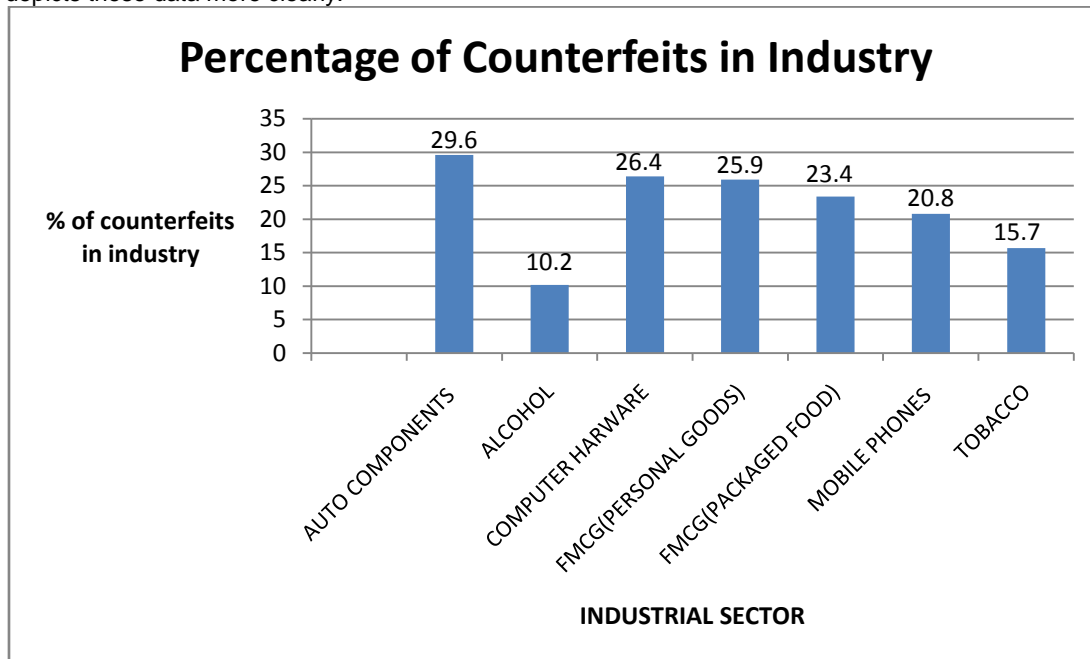
Fakes and counterfeits adversely affect the growth of industries. Its reduction in sales and profit tells the entire story. As per the reports of FICCI' CASCADE, The total sales loss to the seven industrial sector amounted to Rs 72969 crore. All the sectors show significant reduction in sales. This reduction in sales reduces profitability and restricts growth of industries in our country. Sales loss of all of these seven sectors can be easily shown by the following pie chart

Sales loss of Industrial sectors



Source: **Socio-Economic Impact of Counterfeiting, Smuggling and Tax Evasion in Seven Key Indian Industry Sectors, FICCI's CASCADE, 2012**

In addition to the reports regarding sales loss of seven industrial sectors in India, FICCI's CASCADE reports also shows the percentage of counterfeits in each industry of the given seven industrial sectors. The following chart depicts these data more clearly:

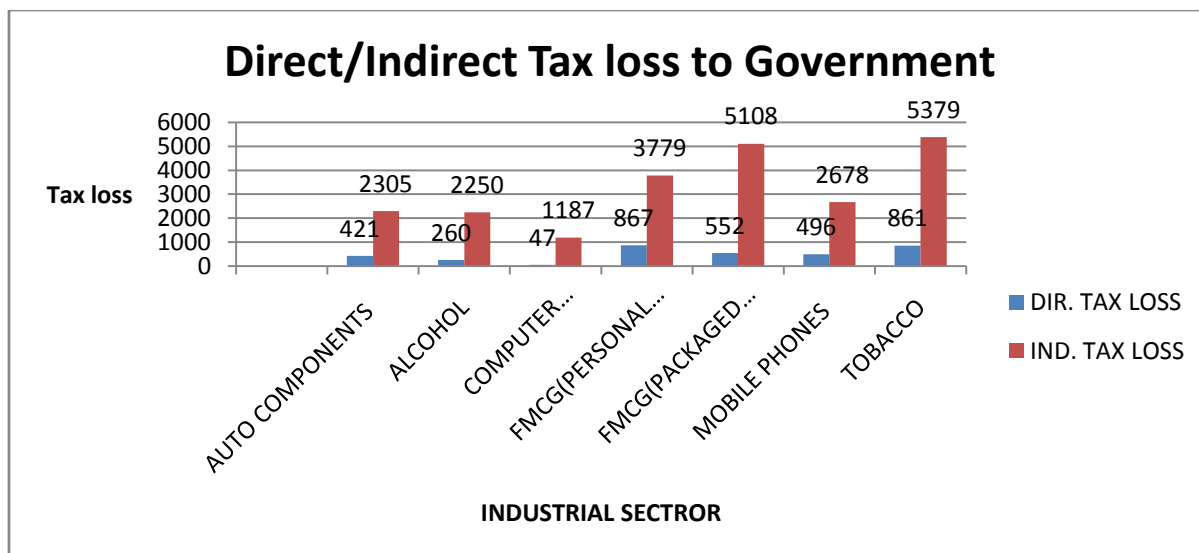


Source: **Socio-Economic Impact of Counterfeiting, Smuggling and Tax Evasion in Seven Key Indian Industry Sectors, FICCI's CASCADE, 2012**

Out of seven industrial sectors, Auto component sector consist of maximum 29.6% counterfeits out of seven sectors, Alcoholic products shows minimum percetbtag of 10.2% counterfeits, Whereas Computer hardware, FMCG(personal goods), FMCG(packaged food), Mobile phones and Tobacco consist of 26.4%, 25.9%, 23.4%, 20.8% and 15.7% respectively.

Impact on Government

Above reports clearly shows reduction in sales and profitability of industries. As a result of reduction in sales and profitability, tax collected by government also reduces which results a heavy tax loss to government. The following chart represents industry wise direct and indirect tax loss to government from the given seven sectors:



Source: **Socio-Economic Impact of Counterfeiting, Smuggling and Tax Evasion in Seven Key Indian Industry Sectors, FICCI's CASCADE, 2012.**

From the above chart, It is clear that Direct tax loss to government amounted to Rs 3504 crore and Indirect tax loss amounted to 22686 crore, which makes the total tax loss to government to a figure of Rs 26190 crore. Due to Counterfeits and fakes, Government faces a heavy loss in direct and indirect taxes. It affects the economic policies of our government.

In present time, Fakes and Counterfeits are dangerous problems for our business environment. It affects almost each and every aspect of business environment whether we talk about activities or dimensions or parties. The various groups of Business environment are affected by these offerings. The impact of counterfeits can be understood with its effect on following:

➤ **Impact on Corporate of Big popular brands**

1. Loss of sale and profitability
2. Loss in brand value
3. Increase packaging cost to combat counterfeits
4. Increase special advertising campaigns to combat such offerings
5. Infringement of copyright.
6. Affects reputation of business industry.

➤ **Impact on Customers**

1. Use non genuine products as genuine one.
2. Not able to use genuine products of big popular brands.
3. Health care costs with the use of spurious and pass offs.

➤ **Impact on Government**

1. Heavy Loss of Direct and Indirect taxes.
2. Public welfare cost including monetary compensation and health care related ones.
3. Heavy legislative cost.
4. Responsibility to organize Anti counterfeiting measures such as Public awareness campaign, police raids etc.

➤ **Impact on Economy**

1. Reduce GDP.
2. Increase in black money.
3. Increase criminal activities.
4. Degradation of Environment.

Initiatives to Combat Counterfeits

From these reports, it's clear that our market is flooded with fakes, counterfeits and spurious offerings. Our consumer is not aware of such offerings due to which they are not able to detect them. Due to presence of these offerings in market, majority of consumers are not able to use products of big brands. There is need some significant initiatives from corporate sector and government to combat these offerings. But still there is lack of such strict and effective initiatives by them. Our legal system too does not have such significant provisions which can stop counterfeits to spread these offerings. Some of the Initiatives suggested to combat these offerings are:

- To create a Regulatory Environment by making some strict provisions in law.
- To make the Consumers Aware of such fakes and counterfeit offerings.
- To improve efficiency of Supply Chain Management.
- Corporate sector should make some adjustment to their products so that consumer can easily identify genuine products.
- To determine solutions with the help of Technology.
- To initiate actions by corporate sector against counterfeits.
- To initiate significant action by Government.
- Role of search and seizure.
- To promote the role of Anti-Counterfeiting Policy
- Continuous Interaction between Industry Members/ Associations

Conclusion and Suggestions

It can be concluded that fakes and counterfeits poses serious challenges to the government, industries and customers. On the one hand customers face health and safety hazards and on the other hand, genuine manufacturers' incentive and motivation to invest in business growth, research and development tends to decline due to presence of counterfeits and fakes. Industries incurred heavy sales loss due to

fakes and counterfeits. Government also faces heavy tax losses due to these offerings. The counterfeiter nexus results in growth of anti- social activities and organized crime. Corporate sector should organize advertising campaigns and some conferences to aware the customers about such fakes and counterfeit offerings. Further, it is recommended that Government of India should develop a strategy with participation from policy makers, representation from enforcement agencies, industry, civil society and organizations working to combat these offerings.

Our legal system should make some strict provisions in laws to deal such offence in most effective manner. Government and Corporate sector should spread information of such provisions in the market so that Counterfeiters and consumers aware of such provisions. Counterfeiters stop producing these offerings and consumers helps to stop these by lodging complaints against them.

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