

# **Spurious/Fake Products: An Abuse to Indian Markets**

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## **ABSTRACT:**

*Posting of record annual sales of fake products at Rs. 15,000 crore this year, the revenue loss to the country by way of evasion of excise and local taxes by these fake products are estimated at Rs 1250 crore in March 2006 as per the study conducted by the Associated Chambers of Commerce and Industry of India (ASSOCHAM).*

*Indian Economy has undergone a number of changes in the last decade due to 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. This exponential growth has also brought some negative effects of counterfeiting, adulteration and spurious products and these days it has become an increasingly dangerous menace to consumer choices, health and the economy.*

*Consumers are often unaware that they buy products that resemble what they want. This is worrying companies because fake products often ride on the success of the original product, eating into sales, and, in some cases, harming the consumer health and safety, but there are many products which a consumer willingly purchases with knowing that they are purchasing fake or duplicate product such as VCD and MP3 Discs only because of lower price.*

*The major victims of these products are customers, companies and government. The paper is an attempt to understand the business of fake products, its existence in market and reasons for its existence and the most important the steps taken by the government and companies to prevent the uses of these products. The paper also aims to suggest strategies to curb these products to circulate in the market.*

## **INTRODUCTION:**

*Sales of fake products to touch Rs 22,000 crore by 2010*

*- A report by Hindustan Times*

The data itself is telling the story. Posting of record annual sales of fake products at Rs. 15,000 crore in year 2006, the revenue loss to the country by way of evasion of excise and local taxes by these fake products are estimated at Rs 1250 crore in March 2006 as per the study conducted by the Associated Chambers of Commerce and Industry of India (ASSOCHAM).

In India a survey was conducted to estimate the size of counterfeit of FMCG products and the survey revealed the stark reality that FMCG companies having maximum loss upto 40% and an average loss around 20% of their market share of their well known products

This problem is not new in a country like India but presently it has invaded every aspect of our lives. From products such as radios, geysers, computer software & phones to food items, beverages, cosmetics and medicines all have been illegally duplicated, copied and counterfeited.

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### **Defining Fake Products:**

The fake products can be classified in to two categories, one- Counterfeit products and second- Pass-off products.

Counterfeiting is a kind of duplication where even the original manufacturer would not be able to distinguish between a genuine and a fake product. These fake products bear the identical name of the original product, its packaging, graphics, colour pattern, design and even same name and address as the genuine manufacturer. A pass-off product, on the other hand, is one that comes with a few minor changes from the original product. The slight changes are made to avoid being categorized legally as counterfeits. (for example “Luk” for “Lux”, “510” for “501”). They use similar type of packaging or colour or designs. They come out with the motive of misleading and cheating ordinary consumers who are uneducated or in a hurry in purchasing products.

According to an estimate, there are 128 `known versions' of Parachute Hair Oil, 113 of Fair & Lovely cream, 44 of Vicks VapoRub, and 38 of Clinic Plus Shampoo. It is very common to get the products like Polons, Run, Chaudharys éclairs, Nilima, Narima, Lifejoy, Liteboy, College Toothpaste, Friends and Lovely and so on.

### **Spurious product: Worldwide**

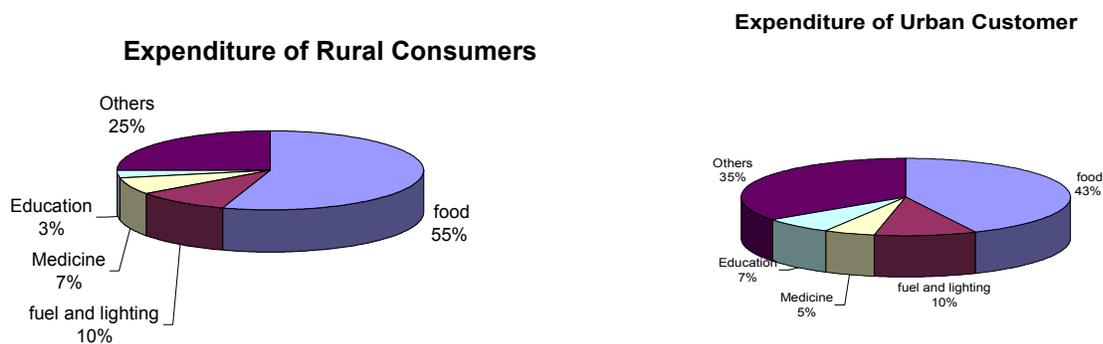
According to the Web site of De La Rue, a UK-based commercial security printer and papermaker involved in the production of over 150 national currencies and a wide range of security documents:

- Ten per cent of perfumes and cosmetics and 11 per cent of clothing and footwear bought by consumers are fakes.
- There are around 160 Web sites offering `genuine Channel products, despite the fact that Channel doesn't sell any of its products on the Net.
- The US FDA recalled \$7 million worth of intra-aortic pumps used during open-heart surgery after it discovered malfunctioning counterfeit parts in the devices.
- Counterfeit baby formula resulted in some babies developing rashes and seizures after imbibing.
- US investigators discovered that more than 600 helicopters sold to US civilians and NATO was equipped with counterfeit parts.
- Fake perfumes have been found to contain urine as a stabilizer.
- Each year in the UK, it is estimated that 4,100 jobs are lost because of counterfeiting - wrecking industries and draining funds which otherwise would have reached public services.

## Major Victims:

### Consumers

The major victims of fake or spurious products are consumers themselves who are cheated by manufacturers of such products again and again. A major chunk of Indian consumers live in villages also who is not educated and aware of such practices. According to National Sample Survey Organization Rural India Lives on Rs. 18 / day, with the bottom 5% barely managed to spend Rs. 8 per person per day. In urban area the figure is Rs. 35 and Rs. 11 respectively. The expenditure pattern of Rural consumer and urban consumer are given as



Source: *The Times of India*, 29 December 2006

### Reasons for Rural consumer exploitation

There are various reasons for rural customer exploitation. Important of them are

**Traditional Life** - The major occupation of the rural population is agriculture and allied activities. They are simple and don't understand unfair practices of Marketers. Following table gives the distribution of rural population as per the occupation of the head and comparison with their urban counterpart.

Head's Occupation	Distribution of households (%)		
	Urban	Rural	All
Housewife	0.84	1.01	0.96
Cultivator	3.45	40.86	29.99
Wage earner	20.93	35.28	31.12
Salary earner	40.72	11.28	19.84
Professional	3.59	0.73	1.56
Artisan	6.9	3.41	4.42
Petty Shopkeeper	16.05	4.97	8.19
Businessman	3.68	0.46	1.4
Others	3.85	1.98	2.52
Total	100	100	100

**Low Income Group** Although India is now seeing a dramatic shift towards prosperity in rural households, they are far behind from their urban counterpart. The lowest

income class has shrunk from more than 60 percent in 1994-95 to 20 percent in 2006-07. The table showing the rural prosperity is as follows.

Income Groups	1994-95	2000-2001	2006-07
Above Rs. 1,00,000	1.6	3.8	5.6
77001-1,00,000	2.7	4.7	5.8
50,001-77,000	8.3	13	22.4
25,001-50,000	26	41.1	44.6
Rs. 25,000 and Below	61.4	37.4	20.2

**Low Level of Literacy** Lower level of education in the rural sector is also a major reason for accepting fake products. Although the literacy has been increased from 36% in 1981 to 59 % in 2001, but it is again very less as compare to urban customers.

**Poor Distribution Network** The rural population lives in the villages which are scattered and it is not possible for all companies to develop a strong distribution network to make product available to each and every villagers. This becomes an opportunity for the manufacturer of fake products and they dump their low quality product at the shops of villages and shopkeepers are given heavy margin on selling these fake products.

According to a report, in the traditional village haats, the main selling locales of rural India, It was found that the absence of original branded FMCG products was more than 90 per cent.

**Lack of Awareness** This is a case which is applicable in case of urban customer too. The customers do not know that they are buying fake product as they resemble as the product they want. We can take example of fake medicine as people are less aware about the brands and quality of medicines so it is easy for the marketer to sell the product and play with the life of these naïve customers. It is worth mentioning here that a government report claims that one in four medicines sold in the country touted to be a spurious product

#### **A willing acceptance to this abuse**

Consumers are often unaware that they buy products that resemble what they want, but there are many products which a consumer willingly purchases with knowing that they are purchasing fake or duplicate product such as DVD, VCD and MP3 Discs only because of lower price. Although the major companies trying to reduce their price to cope up with the challenges posed by these fake products, but the business of these CDs is growing at its maximum pace.

#### **Companies**

Spurious products result in an annual loss of around Rs 30,000 crore to the industry. The FMCG sector seems to be bearing the brunt of this problem with losses estimated at Rs 2,600 crore per year Further, the cost to the top companies in India is a whopping Rs 4,000 crore per annum due to competition from counterfeit products or look-alikes, excluding the crores of rupees spent to protect top-selling brands from this threat. In fact, estimates suggest that FMCG company Hindustan Lever is losing more than Rs 100 crore every year due to counterfeits.

With respect to the piracy and counterfeiting of software and related products, a National Association of Software and Service Companies (Nasscom) survey shows

looses as a result of software piracy in India at around Rs 1,500 crore in 2002-03. The publishing industry loses around 50% of their sales due to counterfeit reproductions. According to a survey done by FICCI, the music industry lost around \$80 million.

Besides affecting the financial health of the company, these spurious products also affect the image of the company, as consumers would associate these ineffective products with the company - not knowing that they were spurious. Products of virtually all major companies are being faked and sold in the open market. Among the companies hit by the trend are Ranbaxy, Hindustan Lever and Colgate Palmolive (Pharmaceutical sector); Pepsi, Britannia, Bajaj and Maruti (automobile spares) besides Titan, Tizza, Raddo and Timex (Watch components).

Common medicines are not exception too. They are being illegally manufactured and sold - as also life saving drugs - are stated to include anti-plague serum, Aspirin, Paracetamol, Dispirin, Amrione, anti-human lymphocyte, Immunoglobulin, Cobalt-60 and BCG vaccine.

### **The manufacturing hub**

Fake products are heavily manufactured in Sonapat, Ghaziabad, Panipat, Meerut and Ballabgarh and the NCR region and these areas have emerged as an 'illegal manufacturing hub',

Whereas Bihar, Bhagirath Palace in Delhi, Indore in Madhya Pradesh, Lucknow and Ahmedabad have become important centers for the production of counterfeit medicine.

### **The Government**

Apart from these counterfeit and pass-off products are harming India's reputation among foreign investors as a good & profitable place to carry on business, it may result in having an adverse impact on foreign investment in India, and hence the Indian economy. Each time one of the original manufacturers discovers that there are cheap copies or imitations of his product available in the market he would attempt to thwart the counterfeiters by changing the product, using new and improved tamper-proof packaging, new labels, logos, adopting and using holograms etc. All this translates into more money being spent on the product by the manufacturer and this cost is eventually passed on to the consumer through higher prices. In fact many jobs are lost in India and through out the world as industries cannot compete with the menace of spurious products. Workers are laid off, units are closed down and due to the poor quality of the imitations and look alike brands consumers begin to lose faith in the original brand itself which in turn has a negative affect on the nation's economy. As stated before the Indian government has lost around Rs 1250 crore in March 2006 on account of tax evasions by such unauthorized manufacturers.

### **Reasons for the Thriving Counterfeit & Spurious Industry:**

#### **Heavy Profit**

The reason for the spread of Spurious, Counterfeit and adulterated products all across the country is that illegal manufacturers make a tremendous profit from the production and distribution of these goods. The reason for such profitability is that many of these individuals carry on fly by night operations in small labs or in old factories and garages. They, unlike legitimate manufacturers do not spend any money or resources in establishing world-class labs with international safety and hygiene standards. They spend no time or funds conducting clinical tests or research & development (R&D) for the products they produce. As they do not have any substantial overheads, all the money derived from the sale of such products goes directly into their

pockets. All these manufacturers have to do is to simply copy the formula, composition, texture etc of the original product, reproduce it's packaging and then sell it in the market.

The fake or imitated products cash in on the success of the original product. The cost of advertising, research, development, trials, overheads, etc is all borne by the original company or product manufacturer. Advertising campaigns cost large FMCG companies crores of rupees.

### **Lack of enforcement of Law**

A lack of enforcement of existing laws by the concerned authorities has contributed to the widespread imitation of these kinds of products. The manufacturers of such drugs and medicines are quite confident that since the offence is difficult to prove they would not face any serious charges. So far the offence being a bailable one, illegal drug makers could only be booked for minor charges.

### **Less customer Awareness**

As we have discussed above also that there is almost no consumer awareness about Counterfeit, Spurious and adulterated products. It is the only reason so the counterfeiters are able to continue selling their dangerous products.

### **Strategies to curb the practices of Fake Producers**

As stated above corruption, lack of political will, lack of customer awareness and poor enforcement of law is main reason for spreading these spurious products nationwide at the cost of companies and nation's goodwill and customer's health and safety. The government along with the customers and companies should formulate strategies to curb the production of these fake products. The strategies can be as follows for different stakeholders

#### **Customers**

Consumers have to come together and realize that some prudence and caution on their part can long way in countering this menace. Some basic and simple measures that can be adopted by consumers all across the country are -

- Customer should make sure that they buy all the products from a reputed shop or establishment.
- Customer should not eat foods from roadside vendors, as many of them do not follow safety and hygiene standards while preparing their food.
- While purchasing, one should always check the labels of all products thoroughly.
- While buying medicines the consumer should always look for the batch number, manufacturing date, expiry date, manufacturing license number, manufacturer's name/address etc on the pack.
- With respect to cosmetics, skin and beauty products it is necessary to look out for any extraneous matter in liquid preparations, lumps in creams or ointments and as always, they should check the labels and read the list of ingredients carefully.

- Customer should always insist on asking for a bill / receipt or cash memo for all products that they purchase.
- It is always mandatory to destroy empty packs, bottles and containers of used or leftover medicines to avoid recycling or refilling.
- It is necessary to complain or report to the company if it is suspected that original product is being duplicated or imitated. It is important to try and ensure that company will lodge complaints either with the local police or the necessary authorities in the state.
- Customer should check before buy the product , if they are aware of any particular mark, logo or hologram the product is supposed to have.

### **Companies**

There is no doubt that companies are major victims of these counterfeit products. They are not only losing their revenue but the goodwill also. A joint effort is made by FICCI and the leading FMCG Companies to bring all companies together to initiate a war against such menace.

For fighting against this syndicate now 50 manufacturers, legal experts and research company AC Nielsen coming together to set up a Brand Protection Committee under the aegis of the Federation of Indian Chambers of Commerce and Industry (FICCI). Its members consist of prominent players such as Proctor & Gamble, Hindustan Lever Ltd., Colgate, Marico, GlaxosmithKline, Coca-Cola, Pepsico, Gillette, Britannia, etc. The idea is to curtail fake products in the country with the joint association with the industry, consumer associations, government vigilance wings and trade associations. The Brand Protection Committee has put in place a four-fold strategy Which is as follows

- A focus on enforcement and application of laws
- Publicising the negative economic impact of fake products
- Taking direct action against illegal manufacturers, traders, wholesalers and retailers
- Enhancing communication among the stakeholders.

Proctor and Gamble (P&G) has been most proactive in its crusade to stem the fakes market and bring to book illegal manufacturers. According to the company spokesperson, a year ago, P&G's Health care division sales were impacted upto 15 per cent.

In the case of Coca Cola, Company tried to find out those businessperson who fills spurious stuff into bottles of company, and raids have been conducted against such manufacturers. Besides this, across the country the company has around 48 Consumer Response Co-ordinators who work with their teams and redress consumer complaints directly, including overcharging and spurious bottling. Besides, they have a large network of Route Salesmen who have a one-to-one relationship with the retailers on their beat and keep their ear to the ground.

Companies are also trying to tackle the problem another way. They are going in for upgraded packaging so that manufacturers of counterfeits find it difficult to replicate their products. Dabur is one of them that is making its packaging more sophisticated and capital-intensive. Its Lal Dant Manjan, at the peak of the problem in 1999, had about six-seven per cent of its sales eaten into. When Dabur replaced its Lal Dant Manjan plastic blow molded container with a premium four-colour shrink sleeve

packaging which had a grainy texture and water bubbles, the packaging was difficult to replicate. This resulted in a sales growth of 12 per cent in the original product.

The automotive parts manufacturing companies, With a view to combat the growing market for fake automotive components, are now focusing on creating consumer awareness regarding benefits of usage of original products.

While Mico has established an 'Anti-spurious' cell to tackle the problem of fake products, companies like Fenner India are conducting road shows etc whereas many others are also educating the dealers to campaign against fake automotive parts available in the market.

### **The Government:**

As we have discussed earlier also that government is also a victim and losing a heavy revenues in form of excise duty, sales tax and octroi. The existing monitoring mechanism is stated to be the weakest in Uttar Pradesh, while states like Haryana, Maharashtra and Tamil Nadu are also seen as not having done enough to discourage the practice. Although there are various laws under which legal action can be taken against manufacturers and sellers of fake products. These laws are

- i. Indian Penal Code 1860
- ii. Drugs and Cosmetics Act, 1940
- iii. Prevention of Food Adulteration Act, 1954
- iv. Consumer Protection Act, 1986
- v. Bureau of Indian Standards Act, 1986 and
- vi. Trademarks Act, 1999

Indian Government and other statutory bodies should take active interest for the protection of legitimate business and provide whole- hearted support to the Industry at large by considering following suggestions for making an amendment in the Trademark law: -

- Make counterfeit or look alike a cognizable offence.
- Impose minimum damages of Rs. 2.00 million or value of goods seized whichever is higher.
- The damages so awarded should be deposited in the Consumer Welfare Fund and should be utilized for anti-counterfeit activities and consumer awareness programs.
- Suspension of license of spurious product manufacturer;
- Expulsion from Trade Associations
- Extensive publicity of offender's name in various media.
- Involvement of Excise Department and other statutory bodies at the time of raids.
- Harmonization of specific sections of Drugs & Cosmetics Act, 1940 to include the definition of counterfeit and fake.

There is no doubt that companies, consumer and government of India is fighting against spurious product and they are getting success in reducing the business through awareness program, packaging, strict law against counterfeit producers But considering the level of losses, the war against counterfeit products is far from over.

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