

## **Illicit Tobacco Update**

### **Introduction**

Illicit Tobacco means:

- Smuggled – legitimately manufactured products which have evaded tax by being illegally transported, distributed and sold
- Bootlegged – products which originate from a country with a low level of tax having been illegally brought into the UK without payment of domestic tax
- Counterfeit – illegally manufactured copies of existing brands, often made abroad and sold cheaply in the UK

The first two types of illicit product fall clearly within the remit of HMRC. Trading Standards also have a responsibility in respect of the second category because of the lack of legal warnings and health pictorials.

Trading Standards is also the main enforcement body for the sale and distribution of all types of counterfeit products and the sale of cigarette to children under 18.

Last year we received a total of 5 complaints regarding the sale of illicit tobacco. All of these related to sales from private addresses. One also related to sales to children. Two other complaints were received about sales to children alone – one related to a private address and the other related to an ice-cream van.

The main barriers to enforcement were that there had been very little inland work undertaken by HMRC following the disbandment of the Tees Target Team. This also meant that there were no local contact points for referral of intelligence and complaints. In practice this meant that any complaints about illicit sales (i.e. those not involving sales to children) were passed to the national hotline number with no feedback or contacts for progress reports etc.

In relation to complaints about sales of cigarettes to children from private addresses the main problem is enforcement limitations for Trading Standards or the Police because of the lack of powers available in the legislation or indeed under PACE (because the offence for selling to children is a summary only offence) for warrants to enter private addresses.

### **New Initiatives**

Two regional tobacco projects have been introduced recently with funding from the Department of Health and Fresh North East. The NETSA Tobacco Control Project aims to reduce the number of illegal sales to under age children, disrupt the sale of illegal and counterfeit tobacco products and ensure compliance with the rules on tobacco advertising.

The second project is the North of England Tackling Illicit Tobacco Programme, involving HM Revenue and Customs, Police, UK Border Agency and Trading Standards, which aims to reduce the supply of 3 main types of illicit tobacco.

New Inland Detection Teams have been formed within HMRC - one based at Middlesbrough and another in Newcastle. Good links have been formed between local team and Stockton Trading Standards & Licensing with informal intelligence sharing procedures now in place.

HMRC have started to publicise the customs hotline as a route for consumers to report “fag houses” and other sellers of illicit products. This is reflected in the level of complaints received by Trading Standards about illicit tobacco:

2009/10	5
2008/9	11
2007/8	15

### **Joint Working and Co-operation**

The situation has improved considerably over the last 12 months with a good relationship now in place between Stockton Trading Standards & Licensing and the Inland Detection Team at Middlesbrough. The team have assisted with a number of operations and carried out raids at a number of properties. We are working to develop this relationship further with a proposal to form a local enforcement group and to consider some joint exercises.

Examples

#### **Roseworth Seller**

Complaints were received about an elderly gentleman selling cigarettes to children from a private address in Roseworth. Visual evidence of children calling at the property was obtained and they did appear to be buying cigarettes. The use of test purchasers was discounted because of health and safety concerns. There are no powers in the relevant legislation for TS to obtain warrants to enter the premises and no provisions for the Police to obtain a warrant for sale of cigarettes to under 18's alone although where the product is shown to be counterfeit both TS and the Police can obtain warrants to enter private addresses. HMRC assisted and carried out two separate raids with small amounts of cigarettes being seized. The resident was cautioned for selling counterfeit product.

#### **Large Seizure at Stockton Business Premises**

A MASSIVE haul of more than 730,000 illegal cigarettes and nearly 500 kilos of hand rolling tobacco was found at a run-down business premises in Stockton. Officers from Cleveland Police contacted Stockton Trading Standards from the premises which they had entered under a warrant for non-payment of electricity. Our officers attended the property and the duty officer contacted the Inland Detection Team at Middlesbrough. HMRC officers were on site within 30 minutes.



It has been estimated the illicit haul had cost the taxpayer £200,000 in unpaid excise duty and VAT. The product was also found to be counterfeit.

## **Thornaby Seller**

A quantity of illicit cigarettes was seized from a property in Thornaby. Again this followed a Police warrant. There was no evidence of sales to children and the seizure was handed over to HMRC who investigated the seller and destroyed the product.

## **Sale of Cigarettes to Children**

Last year we carried out a number of test purchasing exercises with young volunteers who visit retail premises and attempt to buy cigarettes and other age restricted products such as alcohol and fireworks.

A total of 40 attempts were made at retail outlets with 4 sales to children (3 written warnings were issued and 1 investigation is still on-going). In relation to the first 3 these sales occurred when only the underage volunteer was present in the premises which is not in accordance with our procedure but was used to confirm our suspicions that some retailers will only sell to a teenage if no adult is present. All 3 retailers passed a re-check. We have now obtained surveillance equipment for use in premises where we believe this is the case.

In addition a total of 25 attempts were made from vending machines in public houses with 11 successful sales. Written warnings were issued to all licence holders and the vending machine operators (if relevant). The machines were removed in 2 premises; in 5 a remote operating device was installed and in the remaining 4 a recheck was passed and no further action was deemed necessary.

## **Counterfeit Product**

Tobacco scanners were issued to all of the North East Trading Standards Authorities. This meant that proactive work could be undertaken at retailers across a range of brands. In the past officers from the different tobacco companies have accompanied local officers to retail outlets to verify whether product on sale was genuine.

Last year a regional proactive exercise was carried out looking at whether counterfeit product was being offered through retail outlets - 2491 packs were scanned in a total of 75 premises with 26 found to be not recognised as genuine product. This confirms the belief that generally products sold at retail level are genuine.

HMRC figures estimate that 48% of cigarette seizures are counterfeit product.