

Investigation into Factors that Cause Consumers to Buy Counterfeit Mobile Phones - A Case Study of the Lusaka's Central Business District

(Conference ID: CFP/431/2017)

Brian Bwalya Chileshe, Student - Buckinghamshire New University
&
Namuya Maureen Jangulo, Student – University of Rwanda

Abstract

Counterfeit and substandard products circulating alongside genuine quality ones are a serious global, social and economic problem. The World Intellectual Property Organization (WIPO) has estimated the world value of counterfeit goods to be growing from US \$5.5 billion in 1982 to US \$ 750 billion in 2007. Counterfeit mobile phones not only fail to perform many functions and consumers are at a loss. The impact of counterfeit and substandard goods has not only been felt from the economic, social and government, but also manufacturers and traders in the business community and private sector; and more so by the general public, particularly the end users and/or consumers.

This research took an exploratory approach to deduce causes of purchase of counterfeit mobile phones and look into effects and knowledge levels of effects by consumers. The study adopted a systematic review of published literature and previous studies as an approach to establish the previous status of customers' awareness on the sale and use of counterfeit mobile phones. In the research, the qualitative and quantitative research paradigm with focus document review will also be adopted. The study instrument were two self-administered questionnaires, one for the consumer and one for Trader, with both open and close ended questions in the two questionnaires. It being a case study, the population was Lusaka's Central Business District, with Random sampling was used in the selection of consumers for the consumer questionnaire while convenience sampling was used for the traders using the traders' questionnaire. An unstructured interview schedule was used for other key stake holders including Zambia Bureau of Standards, Zambia Police, Mobile Phone Service Providers, Zambia Revenue Authority, Competition and Consumer Protection Commission, Zambia Revenue Authority and Zambia Information Communications Technology Authority. SPSS was used in order to analyse the collected data.

It was found that as much as 87.5 % of the traders said they source from general dealers rather than manufacturers of certified dealers, with 75% of the traders indicating that they are concerned with the originality of the mobile phones, but 92.5% indicating that there is more demand for counterfeits. 41.7% of consumers buy mobile phones from uncertified market mobile phone dealer, with only 53.3% said they bother to check originality, but 43.3% consumers said they have bought a counterfeit phone unknowingly. The study showed that the general dealers make the phones available and that the market is demand lead. While the government may put in place measures, high unemployment levels make traders engage in counterfeit mobile phones while the economic conditions and the demand of consumers facilitates the sale.

Key words: Telecommunications; Mobile Phone Communications; Marketing; Counterfeit

Introduction

Companies are struggling to protect their goods from counterfeits that are flooding the market. Litigation against their sale may not be adequate due to the existing demand for them. Yet consumers are not satisfied with the products. A US judge declined the liability of eBay regarding counterfeit Tiffany jewelry sold via its site, while a French court awarded Louis Vuitton 38m Euros for eBay's failure to block the sale of fake Vuitton goodsⁱ. Many studies have subsequently investigated the demand for counterfeit goods addressing a variety of possible causes of consumer complicity, including "positive attitudes toward counterfeit products", "product involvement", "perception of quality", and "lack of ethical concern" ⁱⁱ (Eisend and Schuchert-Gu" ler, 2006; Bian and Moutinho, 2009). Researchers look into the reasons of production, sale and purchase of counterfeit products by all who are involved to explain this. The complicity of consumers towards counterfeits stands out. Product counterfeiting is any unauthorized manufacturing or distribution of goods whose special characteristics are

protected via IP rights (trademarks, patents, and copyrights). Consumer complicity is the willingness to obtain, share, or use counterfeit products.ⁱⁱⁱ In this survey conducted in Zambia, we look at why consumers purchase counterfeits mobile phones.

In this study, "Counterfeiting" covers manufacturing, producing, packaging, repackaging, and labelling. It involves making, whether in Zambia or elsewhere, of any goods whereby those protected "genuine" goods are imitated in such manner and to such degree that those other goods "counterfeits" are identical or substantially similar copies of the protected goods. "Counterfeit goods" or "pirated goods" or "offending goods" are in many cases used interchangeably and they mean goods that are the result of counterfeiting or piracy. Counterfeit products occur when the intellectual property rights (IPR) has been stolen. In other words, counterfeiting is stealing. It is theft that needs concerted efforts by governments and the international community to reduce or eliminate. On the other hand, counterfeits are substantially substandard products which fail to meet requirements of the relevant standard when tested using appropriate test methods.^{iv}

It is clear that the demand for the counterfeit phones, in the case of this research drives the market as consumers need for various types of phones is only increasing with the evolution of technology and new software. However, the originality of the phones is a contention for some consumers as phones they purchase may not have the names of original worldwide known phone manufacturers. The research took an exploratory approach with structured and semi structured questioned questionnaires for both consumers and traders and found that many consumers, knowingly purchased counterfeit phones and were able to tell the difference while traders sold them knowingly. Reasons given where due to affordability and demand of counterfeit phones over original phones.

Counterfeit and substandard products circulating alongside genuine quality ones are a serious global, social and economic problem. The World Intellectual Property Organization (WIPO) has estimated the world value of counterfeit goods to be growing from US \$5.5 billion in 1982 to US \$ 750 billion in 2007.

Currently, counterfeit products represent up to 15 percent of the World Trade. Counterfeiting is the world's greatest form of theft. The global efforts to deal with counterfeits have not been successful because trade regulations are inadequate and inefficient. A global fair-trade regime must be developed to be able to address counterfeits so that consumers are aware which products are counterfeit and which ones are original. The introduction of Trade Related Intellectual Property Rights (TRIPS) agreement in the World Trade Organization (WTO) was inevitable. Since the national legal instruments do not provide for adequate protection and enforcement against counterfeits, it is advocated that the TRIPS provisions be locally incorporated to address this inadequacy. According to Uganda Communications Commission (UCC), "a counterfeit phone is an imitation phone that is marketed and sold under the name of an authentic brand." (UCC, 2014). By its nature of being an imitation, it fails to perform all required functions.

The Case for Lusaka, Zambia

Zambia being a nation where unemployment is currently at 19.6% has a majority informal sector that is composed of traders who trade in various goods. This aspect was also considered though not assumed. Traders of mobile phones were given a chance to explain why they trade in the particular type of phones and whether they revealed the quality of the phone to the consumers. Traders were also able to give information whether this was a concern to the consumer or not and if they sold both types of phones, which they saw had a greater turnover and why. There is not sufficient regulations to counter the sale of counterfeits in Zambia and this needs serious attention from a legal perspective.

Zambia like any other nation around the world is suffering enormously from the adverse effects of the flooding counterfeit and substandard products in its domestic market. This can be seen through the import of products by formal and informal traders of these counterfeit particularly electronics such as mobile phones. The impacts of counterfeit goods have all along been felt from the economic (e.g. dwindling government revenues) to social (health problems), government departments, manufacturers and traders in the business community and private sector, and more so by the general public particularly the end users and/or consumers. In addition, the influx of counterfeit and substandard products in the country has undermined the efforts by the government to create conducive investment climate and attract genuine foreign as well as local investors in the manufacturing sector and promote efficiency and effectiveness in manufacturing of goods in Zambia.

The ultimate victim of counterfeit goods is the consumer. They receive poor quality goods at an expensive price and are exposed to health and safety dangers. Mobile service providers are also unable

to provide the required service with some mobile products that do not have provision to execute them. Counterfeit phones do not possess the International Mobile Equipment Identity (IMEI) which is a number assigned to each mobile phone manufactured under internationally agreed safety and quality requirements. This is a number printed under the battery of the phone or it can be simulated when one dials *#06# for it to be displayed even without the phone containing a mobile service provider sim card.

In view of the magnitude of the problem of counterfeits and substandard goods, such as mobile phones in a world where one is able to answer emails as well as respond to business queries on a mobile phone through the service of the service provider, having mobile device that fails to perform its role as expected due to it being a counterfeit is not only a problem for the individual, but slows down the operations of businesses.

Effects of Counterfeit mobile phones

Counterfeit mobile phones not only fail to perform many functions but often consumers are at a loss. The impact of counterfeit and substandard goods has all along been felt from the economic (e.g. dwindling government revenues), social (health problems) and by government departments, manufacturers and traders in the business community and private sector; and more so by the general public, particularly the end users and/or consumers. Selling of counterfeits not only leads to government loss of revenue from registered patents but discourages investors in original products due to a lack of protection by relevant laws.

In addition, the influx of counterfeit and substandard products in the country has undermined the efforts by the government to create conducive investment climate and attract genuine foreign as well as local investors in the manufacturing sector and promote serious manufacturing of goods in Zambia. Mobile phones in particular, when they are counterfeit run the risk of providing poor voice calls, emitting excessive radiation, limited services due to pirated software and excessive heat and risk of explosion. They also have a short lifespan and consumers do not get their money's worth.

Counterfeit products are products, which are unauthorized imitations of branded goods intended to be passed off for an original with the purpose of defrauding or deceiving the consumer of the said product into believing that it is the original product. A counterfeiter causes the owner of the brand name to effectively lose a customer by misleading the said customer into purchasing a counterfeit good (in most cases substandard) in the belief that he is purchasing the genuine article.^v

Counterfeit products are harmful to the economy and health since its making the cause of restricts the development of genuine mobile phones by disrespect the goodwill of the Intellectual Property Rights holders. The research therefore took a descriptive approach to its methodology. This research reviewed previous documents, locally and internationally on counterfeit mobile phones and looked into previous researches conducted in its review of literature.

Study Methodology

The study adopted a desktop review as an approach to establish the current status of customers' awareness on the sale of counterfeit products in looking at their involvement in the purchase of counterfeit mobile phones. In the research, the qualitative and quantitative research paradigm with focus document review was also be adopted.

Exploratory research design was used because when searching into general problems and it is often used in areas where there is a lack of research. The exploratory research design was selected as it is very flexible and often unstructured which fits qualitative studies^{vi}. Often the result of an exploratory research is generating important and deep information about a specific problem rather than generate answers of a general problem.

Descriptive research design was used as it showed a clear and accurate picture of the market environment which gives the reader relevant information about counterfeit mobile phones. The descriptive approach often fits quantitative studies due to its nature and hypotheses are often used in descriptive research.

Random sampling was used in the selection of consumers for the e consumer questionnaire while convenience sampling was used for the traders using the traders' questionnaire (a convenience sample exists of people that are easily accessible for the researchers at the time the research is done).

This study is imperative because some measures will be recommended on how the Zambian government should increase consumer awareness on how to identify counterfeit products and come up with tough remedies on how to stop the sale of counterfeit products. Zambia today has many traders for mobile devices beyond mobile service providers. This has resulted in sale of devices that have no guarantee and are counterfeit. These are attractive to consumers due to their low prices.

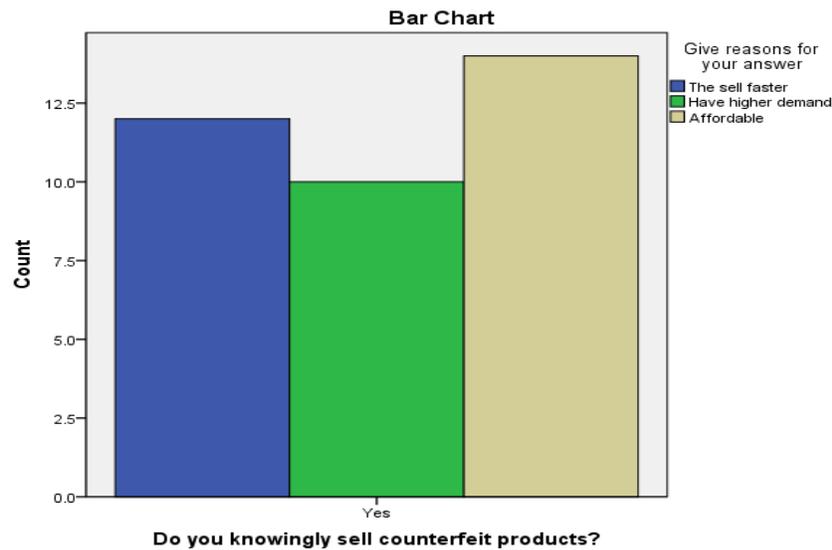
Discussion

Branded mobile phones are known to be expensive than feature mobile phone^{vii}. This contributes to the purchase of counterfeit mobile phones. CSP mobile phones are not produced under the standards of the IMEI code and government authority did not examined the IMEI code of CSP which leads the unbalanced performance of CSP while consumer use it. In a news report show cases of body damages made by mobile phone explosions, hang in calling, distortion and financial cost incurred due to a single SMS sent 10,000 times because of inefficiency and inaccuracy of CSP embedded mobile software. CSP may be cause of unbearable service expenses which is incurs for instance users unwilling transmission of internet traffic, automatically call making, downloading data without users' intentions.^{viii}

In the findings, 7.5% of respondents said that the original phones where with higher demand because of their durability while 92.5% of respondents who said counterfeit phones where with high demand said the reason was because they were cheaper. Clearly the price for the counterfeit mobile phones remains

attractive to traders and consumers over durability and warranty. This is alarming for the government as they not only lose taxes but the attitude of both the trader and consumer proper gate the trade of counterfeits. 86.7% said they had bought a fake phone knowingly while 13.3% said they had not. Those that said they had bought a counterfeit phone knowingly said the reason was that they were affordable (85%), that they had desired features, (1.7%).

The sale of counterfeit phones can be seen from the dealers who gave the reasons below:



The above shows that the demand for the counterfeit mobile phones drive the sale with them selling faster, having higher demand thereby having high turnover and affordability on the part of customers.

The results have brought out that majority dealers in Lusaka sell counterfeit mobile phones together with originals or by themselves. This has also shown that Correlation shows very strong but negative relationship revealing that the instances of selling counterfeit mobile phones may be closely linked to the source of the phones. There is a clear indication that there are majority phone dealers purchasing from general dealers showing an availability of counterfeits from general dealers that enter the country. This means the source of this situation lies in the companies that bring in these counterfeit mobile phones more than in the sellers.

Consumers having a great interest in original phones but purchasing counterfeit phones has a lot of reasons among them affordable cost but the counterfeit phone that is not in good condition is sent back on the market as it is resold. This creates a vicious cycle of counterfeits. Consumers who know on patents but sellers who say demand for counterfeits is high means that the availability of the counterfeits diverts buyers who know that the phones are counterfeit. Both the customers and dealers feel government is not doing enough and they did not take the blame for the sale of counterfeits citing that

they are a source of income. The action must be clearly taken from the source of the phones to make them less available.

The findings from this study were intended to inform the policy process and particularly use it to plead to the Government to take corrective measures. Thus, the overall objective of this study was to provide information and well-grounded arguments that will persuade the Government to take the necessary steps to reduce the proliferation of counterfeit and substandard goods in Zambia as well as give insight to patent owners on the prevailing situation and the role they can play in countering this situation.

Counterfeiting and substandard goods is really a serious problem in the world in general, and Zambia in particular. Counterfeited products unlike 'similar' products cannot be easily traced to the producers therefore leaving all consumers at the mercy of trial and error with no recourse for defective or damaged consignments. In today's global economy, Mobile phones, are used for much more and serve as computers with their many functions. These, however, will not be operational on a counterfeit device, which causes a costly and unhealthy inconvenience for the consumer.

Mobile phone manufacturers produce mobile phones that are imported into Zambia and they attract taxes that lead to government income. Therefore, the compliance of traders to government regulation on products that the manufacturer produces will increase the income for government revenue and protect consumers of mobile phones. This will bring about benefits to consumers, traders, manufacturers and national income.

It is clear that the demand for the phones drives the market as consumers need for various types of phones is only increasing with the evolution of technology and new software. However, the originality of the phones is a contention for some consumers as phones they purchase may not have the names of original worldwide known phone manufacturers. This means there are brands that are counterfeit or have similar characteristics to those that are well known but produced by another manufacturer. According to Uganda Communications Commission (UCC), "counterfeit phones congest the networks thereby affecting the quality of the service to consumers." (2014, UCC) The demand for phones however for both types is the main purpose of this research to determine consumers' awareness of the various types and look into their reasons for purchasing them in view of this knowledge. It is also important to know the relationship between the phone quality (counterfeit or not) with price, availability on the market, versus the knowledge of it being counterfeit. Counterfeiting and substandard goods is a real and serious problem in the world in general, and Zambia in particular.

Conclusions and Recommendations

Government must therefore take action to counter the source of counterfeit phones in Zambia by increasing taxes and enforcing the Patent Act. It is also inevitable to increase the purchase of original phones by reducing taxes on original phones to enable them be affordable to customers.

Government and relevant institutions also must realise there is a lack of information in public and thereby conduct sensitization on the Patents Act with traders. It may also add value to create a roving team that monitors counterfeit phones with ZICTA and Police Headquarters even without a complaint from Patent owner whenever possible. It therefore calls for an increase capacity of enforcing institutions. However, a nationwide campaign against counterfeit mobile phones would create wider support. In addition, an increase in penalties to traders of counterfeits would discourage their sale on the market. Zambia, must therefore increase stringent measures against counterfeits phones and enhance laws to cover counterfeits in relevant institutions.

ⁱ Waters, R. (2008), "Moment of truth for eBay on fake luxury goods", The Financial Times, available at: www.ft.com (accessed 02/04/2017)

ⁱⁱ Eisend, M. and Schuchert-Gu"ler, P. (2006), "Explaining counterfeit purchases: a review and preview", Academy of Marketing Science Review, Vol. 12 and Bian, X. and Moutinho, L. (2009), "An investigation of determinants of counterfeit purchase consideration", Journal of Business Research, Vol. 62 No. 3

ⁱⁱⁱ Bian, X. and Veloutsou, C. (2007), "Consumers' attitudes regarding non-deceptive counterfeit brands in the UK and China", Brand Management, Vol. 14 No. 3

^{iv} Wilcox, K., Kim, H., Sen, S. (2009). "Why do Consumers buy Counterfeit Luxury Brands" Journal of Marketing Research, Vol. 46, Issue 2, pp. 247-259

^v Dodia, Y. (2008). Trade and Commerce: Counterfeit Goods. Lusaka; Zambia Economic Development

^{vi} (Malhotra, 2010; Aaker et. al., 2010).). "Basic Marketing Research", fourth edition London: Prentice hall.

^{vii} Liao, C., Lin, H. N., & Liu, Y. P. (2010). Predicting the use of pirated software: A contingency model integrating perceived risk with the theory of planned behavior. Journal of Business Ethics, 91(2), 237–252.

^{viii} Ibid.