

**GOVERNMENT OF INDIA
COMMERCE AND INDUSTRY
LOK SABHA**

STARRED QUESTION NO:476
ANSWERED ON:29.04.2013
. COUNTERFEIT PRODUCTS IN MARKET
Kaswan Shri Ram Singh

Will the Minister of COMMERCE AND INDUSTRY be pleased to state:

- (a) whether there have been reports of counterfeit of popular Indian brands of consumer items and other products allegedly being marketed by Chinese manufacturers involving trademark violations;
- (b) if so, the details thereof along with its impact on the national exchequer as well as the domestic producers;
- (c) whether there have been specific cases of such counterfeit products being sold in India and if so, the details thereof;
- (d) whether the Government has taken up this issue with the Chinese authorities and if so, the details thereof along with its outcome and if not, the reasons therefor; and
- (e) the remedial steps being taken by the Government in this regard?

Answer

THE MINISTER OF COMMERCE & INDUSTRY (SHRI ANAND SHARMA)

(a) to (e): A Statement is laid on the Table of the House.

STATEMENT REFERRED TO IN REPLY TO PARTS (a) TO (e) OF LOK SABHA STARRED QUESTION NO. 476 FOR ANSWER ON 29TH APRIL, 2013, REGARDING COUNTERFEIT PRODUCTS IN MARKET

(a) to (d): No information is available with the Ministry.

(e): Primary responsibility for investigating the complaints of manufacturing and trading of counterfeit products rests with the concerned State Police. Adequate provisions exist in the various laws for dealing with counterfeit products and those who are engaged in the business of counterfeit goods. The Trade Marks Act, 1999 provides for penalties for applying false trademarks and trade descriptions and for selling goods to which a false trade mark or false trade description is applied. It also contains provisions to prevent the falsifying or the false application of trademarks, false trade descriptions, etc. under Sections 101, 102, 103, 104 and 105 of the said Act. The remedies available under the Act relate to the protection of the Intellectual Property Rights inherent in a trademark and provide both civil and criminal remedies for registered trademark owners. Action against piracy of products of registered brands, resulting in infringement of rights has to be prosecuted in the appropriate courts for securing civil and criminal remedies. The onus of initiating action against infringement of trademarks lies upon the owner of the registered trademark who can move the civil or criminal court for redressal.

Section 101 to 105 of the Trade Marks Act, 1999 also provide for necessary penalties for falsifying and falsely applying trademarks. Offences under Sections 103, 104 and 105 are cognizable and the period of imprisonment provided is to be not less than six months with a maximum of three years and with a minimum fine of Rs.50,000/- which may extend to Rs. 2,00,000/-

The Indian Penal Code, 1860 also contains provisions to deal with counterfeiting and piracy. The Consumer Protection Act, 1986 can also be invoked by the consumer against the counterfeiters by filing complaints in the appropriate consumer court. The Bureau of Indian Standards Act, 1986 also contains penalties against those who use the standard (ISI) Mark without obtaining the requisite licence. The Bureau detects and investigates the case of misuse of ISI Mark and prosecutes the offenders, wherever required.

In the case of food or drugs, the offences are cognizable and the Police on complaint of any person can take action against the offender.