



ALLIANCE

FOR INTELLECTUAL PROPERTY

Proposed market regulation

The Alliance for Intellectual Property, with the support of the Trading Standards Institute, believe the introduction of common sense, light touch regulation of these sales is needed in order to stop them being used for criminal activities, to protect consumers from harm, and to prevent local businesses from having to compete against illegal traders who avoid local taxes. The government is due to consult on proposals to regulate these markets but the Alliance is very disappointed that the production of this consultation appears to be subject to constant delay and is pressing for it to be given greater priority.

The Alliance would like to see:

1. Civil and criminal liabilities on market organisers who knowingly allow the sale of counterfeit or pirated goods on their land, for example from market stalls or car boot sales. There are already several precedents for holding them liable - aiding and abetting, and money-laundering (in the full knowledge that the profits are from illegal sales of fakes) have both been established as a basis for prosecution in recent years.¹ It would therefore be difficult to argue against, providing the measure allowed for the owners and organisers first to be given adequate warning through an enforcement notice that illegal sales or activities are taking place at the occasional sale.
2. The introduction of national light touch regulation which would include such measures as:
 - Requiring the market organiser to notify the local authority notified 21 days in advance
 - Requiring that the organiser collect basic information on the day of all traders operating at the market – could include name, address, vehicle registration.
 - Requiring that the adult responsible for renting the stall remains within the precincts of the sale while trading was taking place. The Alliance has growing evidence of illegal traders using children to sell fake products in order to escape prosecution.
 - A standard clause in local authority licence agreements whereby a licence would be revoked if counterfeit or pirated products were continually sold.
 - A National Licence Database for all authorities to access which would alert them to people applying for a licence in one authority who had had a previous one revoked by another. This might go some way to addressing the continuing problem of displacement.

¹ Northern Promotions 2005; Wendy Fair Markets 2007