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# **Distribution and consumption of counterfeit alcohol: Getting to grips with fake booze**

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Find out more at [alcoholchange.org.uk](https://alcoholchange.org.uk).

Opinions and recommendations expressed in this report are those of the authors.

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# Executive summary

## Background

Several reported incidents of counterfeit alcohol operations were followed by dire warnings in the press to potential consumers of blindness, and even death, should counterfeit alcohol be purchased and consumed. There were reports of illegal stills that had exploded and where there had been fatalities of those involved in illicit production. However, the reporting appeared to be episodic, reactive to events, and with little follow-up on the outcome of investigations.

Contact with a European regulator provided the impetus to investigate counterfeit alcohol and apply a criminological perspective. Case files were made available for analysis and with application of routine activity theory, script analysis and a social network analysis, it was possible to gain a greater understanding of the organisation and distribution of counterfeit alcohol.

The lack of follow-up in relation to reported cases and a general lack of interest in the issue of counterfeit alcohol by regulators could be explained by counterfeit alcohol not being a significant problem in terms of potential damage to health or revenue lost. Another possible explanation was that counterfeit alcohol was a problem that presented several challenges that were time consuming, costly and with little benefit once prosecuted and so it was not prioritised or defined as a significant problem.

There was a lack of criminological curiosity in the topic. Criminology has an interest in drug use and markets, counterfeiting of goods from aircraft parts to clothes and fashion accessories, but not alcohol. There is an increasing interest in food fraud. In utilising previous research strategies from food fraud, it was appropriate to consider the distribution and consumption of counterfeit alcohol through a criminological lens.

## Methods

The aims of the project were:

- Provide a greater understanding of the social factors that influence counterfeit alcohol distribution and consumption
- Develop a detailed understanding of the distribution mechanisms of counterfeit alcohol

To realise these aims a number of approaches were used to understand and analyse the data. Routine activity theory assumes a crime can be committed in a situation where there is a criminal opportunity, there is a motivated offender(s) and there is a lack of capable guardianship. Script analysis provides the opportunity to develop a framework that structures possible crime scenes, these are the things that need to happen for the crime to occur, the necessary actors involved, and the resources required for a successful execution of the crime. Social network analysis provides the opportunity to analyse the relationships and roles of actors in the crime scenes and their connections with each other and others in the prosecution of the crime. This can identify hidden networks and the essential roles undertaken by different actors.

## Findings

- 1 Cheaper brands, and 'own brand' vodka appear to be the most vulnerable to counterfeiting. One Trading Standards officer expected luxury brands to be more vulnerable, however, there is no indication of this from the data.
- 2 Trading Standards officers appear to rely on intelligence in cases of counterfeit alcohol or on a consumer complaint. There is no case we found where counterfeit alcohol was discovered through normal routine regulatory visits to retailers.
- 3 The distribution of counterfeit alcohol has a very opaque supply chain and it is challenging for Trading Standards officers to trace back more than one step. This hinders prosecution and makes the understanding of distribution networks more challenging.
- 4 The opaqueness of distribution networks makes investigating the production networks even more challenging owing to lack of the visibility of supply chain networks.
- 5 The successful distribution of counterfeit alcohol relies, in part, on its integration into the market as 'legitimate' product. The 'branding' of the counterfeit product as a 'known' brand appears to induce consumer confidence in the product.
- 6 There are certain activities that provide a cover for illicit distribution. The use of legitimate delivery networks, for example, delivery vans and other legitimate traders, such as taxis, are an aid to concealing distribution. There are many other forms of legitimate delivery service that could be utilised for the distribution of counterfeit alcohol. These distribution methods make it complex to trace the supply chain back from the point of delivery.
- 7 Recent cutbacks to Local Authority funding have impacted on the capacity of Trading Standards Offices to investigate activities other than those which receive a high priority. This can make the distribution of counterfeit alcohol less risky for those engaged in this activity.

## Implications

It is not possible to generalise from one detailed case study alone, but it has been possible to gain further insight into distribution strategies and to also frame questions to a variety of respondents involved in the regulatory process and those who are the potential buyers of counterfeit alcohol. This alongside an analysis of various reported cases and an examination of on-line opportunities for distributing and purchasing counterfeit alcohol provides a reliable foundation to begin to develop some conclusions in relation to the distribution of counterfeit alcohol.

There are a number of implications:

- 1 It is necessary to gain a more detailed analysis of the locations of sale of counterfeit alcohol. There are number of ways that this could be achieved. This research indicates the vulnerable areas to counterfeit alcohol and further research in these locations could be beneficial.
- 2 There is a lack of resources available to Trading Standards and Environmental Health Offices due to local government controls on expenditure. These controls make anything other than a reactive approach to counterfeit alcohol unlikely.

- 3 The costs of investigation and prosecution must be met by the local authority and this seems to result in only prosecuting those cases that are large and significant enough, as investigation and prosecution costs are high.
- 4 The lack of knowledge in relation to the production, or sourcing, of counterfeit alcohol makes it difficult to investigate. The case study used in this research indicates that networks appear flexible and can mutate effectively to establish on-going distribution networks. The lack of knowledge as to the origin of the 'product' makes stopping the flow of counterfeit alcohol extremely challenging.
- 5 It is not possible at the moment to know the scale of the problem. It may be that the importation and production of counterfeit alcohol is episodic and not a significant problem as the seizure data would suggest. However, the seizure data could be extremely partial and not provide a good overall assessment. Whilst the seizure data seem to be relied upon by some regulators to assess the extent of the problem, the actual extent of the problem remains unclear. There is a danger of both under-estimating and over-estimating the scale of counterfeit alcohol on the market.

## **Conclusions**

There is a need to attempt to accurately estimate the size of the counterfeit alcohol market in the UK. This would provide an indication of the size of counterfeit alcohol markets. Particular attention should be paid to areas that are vulnerable to the sale of counterfeit alcohol. It is critical to assist regulators in developing an investigative strategy that will be enhanced by an increase of investigative resources, clear lines of authority in any multi-agency investigation, and a sharing of investigative costs. There is an importance in regulatory bodies having a clear strategic vision in relation to counterfeit alcohol in the immediate future that is designed to limit market expansion. This would enable the development of a coherent and strategically joined up approach to the policing of illicit alcohol markets. There is little understanding of the market in smuggled alcohol and whether there is an overlap with the markets in counterfeit alcohol. This could be improved via further research in relation to smuggled alcohol where supply chain networks may be more visible.

# Project aims, methods and design

## Project Aims and Context

The aim of this project was to:

- 1 Provide a greater understanding of the social factors that influence counterfeit alcohol distribution and consumption.
- 2 Develop a detailed understanding of the distribution mechanisms of counterfeit alcohol.

## Introduction

The report on the Economic Cost of Infringement in Spirits and Wines issued by the European Union Intellectual Property Office (July 2016) states that the UK has lost circa €197,000,000 due to counterfeit wines and spirits. Most significantly, seizure data shows that counterfeit alcohol, some of which is fake and injurious to health, has been produced, distributed and sold in the UK. However, the illegal nature of the production, distribution and consumption of counterfeit alcohol inhibits a clear estimate of the extent of the problem, leaving gaps on our knowledge about how the production and distribution of counterfeit alcohol is organised.

The aim of the research project is to provide greater understanding of the distribution and the consumption of counterfeit alcohol through the investigation of networks involved in the distribution of counterfeit alcohol in order to ensure market penetration – that is, how networks develop and are organised and the interdependency between the different distribution points. Understanding the market for counterfeit alcohol, and in particular, the process of distribution, enables an understanding of the localised nature of how counterfeit alcohol distribution is organised and how locally organised groups are networked with wider networks of distribution (see Hobbs 1998 for an explanation of the local and the global). Furthermore, the research project explores the markets for counterfeit alcohol through data collection on the consumption of counterfeit alcohol as a means of understanding the purchasing decisions of consumers, as well as how the demand in the market is structured and exploited by those selling counterfeit alcohol. In so doing, the project adopted a criminological approach and social network analysis in order to increase our knowledge of how distribution is organised, the purchasing decisions of consumers and the interaction between demand and consumption in the illicit market of counterfeit alcohol.

The project developed over a period of 24 months providing quarterly reports on the activities and outputs of the project. The project was divided into three stages. In the first stage, ethical clearance was obtained in accordance with the University's regulations, in addition to conducting desk research on the data publicly available and creating lists of potential participants/persons to contact once ethical clearance was provided.

Furthermore, we created an expert group inviting representatives from the authorities, the industry and academics. We held a meeting with the expert group to discuss the project's aims and objectives as well as our preliminary understanding of the problem and findings on the sector. The expert group provided useful feedback on the priorities, problems and approaches from each of the sectors represented in the group, which were used to

inform the data collection process. The second stage involved the collection of data through the requests for information to local authorities, interviews and surveys. The third stage entailed the collation and analysis of the data collected in the first and second stages of the project. The final report includes the research findings and recommendations for the future.

## **Contextual Issues**

Recently there have been seizures of counterfeit alcohol in the UK and Ireland. Operation OPSON, a EUROPOL and INTERPOL joint operation between October 2014 and January 2015 discovered over a quarter of a million litres of drinks recovered across all regions. Similar results were posted by Operation OPSON VII in April 2018 (see EUROPOL 2018). During OPSON VI counterfeit alcohol was among the most seized product, and in the UK, a plant making fake brand-name vodka was raided. There were over 20,000 empty bottles ready for filling. There was evidence that antifreeze was used as there were a large number of empty five-litre containers as well as a reverse osmosis unit used to remove the chemical's colour and smell from the antifreeze. In March 2015 the investigation of a pub landlord in Consett for selling fake vodka was widely reported (<http://www.mirror.co.uk/news/uk-news/pub-landlord-who-sold-dangerous-5355834>). In August of 2015 it was reported that 130,000 litres of counterfeit vodka were discovered in Widnes (The Grocer 2015), and since August there have been further prosecutions (Teeside News 2015). In December 2015 a cross-border operation (UK/Ireland) discovered a counterfeit vodka plant in Co Louth, Ireland (ITV 2015) In 2011 five Lithuanian men died in an explosion when the still they were using to manufacture alcohol exploded and 'three lorry loads of spirits falsely labelled as Smirnoff were found nearby.' (BMJ 2012). The frequency of press reports, public alerts and the scale of seizures indicate that this is an issue of significant public concern. McKee et al (2012) in the BMJ stated that many counterfeit alcohols:

“...are similar in composition to the products they imitate, and the major risk to health probably comes from excessive consumption of ethanol because of the cheap price. It is impossible to tell without testing, however, which of these products contain other potentially toxic contaminants.” (Editorial)

In August 2017 there was a reported case of counterfeit alcohol in a public house in Northumberland. Two mainstream brands were seized and tested and found to be fake. The tests suggested that the alcohol was sourced from industrial alcohol and were 5.7% lower ABV than required by law. The relevant Trading Standards Authority were not able to estimate the size of the problem but were of the view that it was wider than the one public house discovered and prosecuted.

These cases highlight one of the key problems in relation to the research of counterfeit alcohol; the extent of counterfeit alcohol placed into the legitimate market. The selling of counterfeit goods relies on two processes; first the purchaser knowing that the item, such as designer labelled clothes and fashion accessories, cannot be genuine at the price paid and is purchased to provide the appearance of the legitimate item. Second, that the purchaser is of the belief that the item they are purchasing, food and beverage for example, is what it claims to be. In the latter case the fraudulent good has to be placed into the legitimate market as legitimate product and this requires that the legitimate market is infiltrated by the fraudulent product at some vulnerable point that allows the product to be viewed as authentic. What the cases briefly outlined above indicate is that there is a flow of counterfeit alcohol into the legitimate market and that on occasions it is

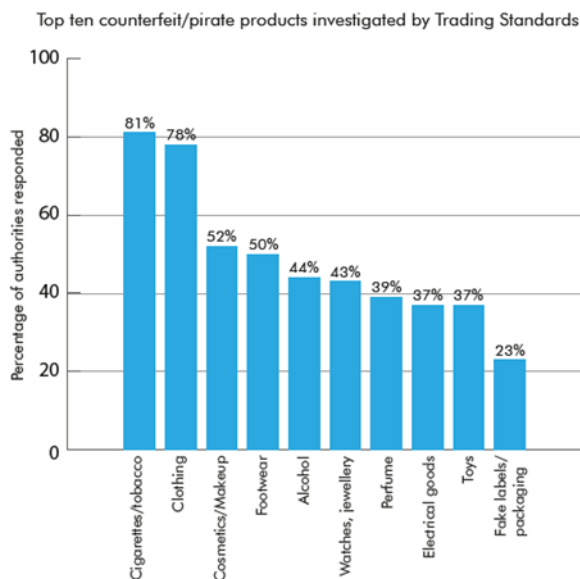


discovered by Trading Standards. Therefore, it is problematic to assess the size of the counterfeit alcohol market from seizure data as it relies on a number of factors.

- The priority that Trading Standards Offices are able to give to the detection of counterfeit alcohol.
- Resources available to Trading Standards at a time of reduction of available resources that are not required to meet statutory requirements.
- Priority given to counterfeit alcohol by HMRC in order to counter duty evasion.

The cost of managing investigations can cut across several agencies (Trading Standards, Environmental Health, Police, HMRC) and can also have cross-jurisdictional (linking with other EU Member states) components. These multi-agency and cross-jurisdictional investigations are expensive. In the UK these expenses fall to local government-based agencies that are on tightly managed budgets and with a relatively small pool of expertise, due to the on-going ‘austerity’ policy. The Food Crime Unit’s Strategic Assessment 2016 (FSA 2016) addresses issues of counterfeit alcohol with a focus on spirits. However, there is little reported other than seizures dating back to 2013 and the suggestion that the production and distribution is linked to Eastern European Organised Crime Groups. However, there is little attention to counterfeit alcohol in other FSA publications. Due to the variations in the data it is not possible to accurately predict the amount of counterfeit alcohol on the market. The Food Crime Unit Strategic Assessment (FSA 2016) notes that the places where most seizures took place were in the North-West, Scotland, the Midlands and Northern Ireland, again this could be an artefact of variations in Trading Standards activity rather than accurately recording the location hotspots for counterfeit alcohol. The table below suggests that counterfeit alcohol is the fifth in the top ten products investigated by Trading Standards. This relies on only 44% of Trading Standards authorities responding, there is a lack of data for over half of the Trading Standard authorities.

**Trading Standards statistics \***



Source: *IP Crime and Enforcement Report 2017-2018:11*

One means of understanding with more clarity the market functions of counterfeit alcohol is to avoid the temptation to ‘size the market’ but rather to try and understand how distribution and consumption may occur. Consequently, one of the strategic approaches

of this project was to utilise available data from a regulator that provided data on a previous case. This also provided cross jurisdictional data and allowed for a social network analysis to be undertaken in order to understand the elements of distribution and market structure.

## **Project Design and Methods**

The project was designed around three key elements.

- 1 The first element of the design was the analysis of the case data to enable a case study to be further developed. This provided a detailed analysis of how the counterfeit alcohol was moved from the point of collection to the point of distribution. It has also been possible using seizure data linked to the case data to develop a framework to understand how the alcohol was distributed to a street level. The data also provides some indications of market penetration and calls into question how Trading Standards' data may be analysed.
- 2 The second element was to conduct a number of interviews with potential purchasers of counterfeit alcohol in order to gain some understanding of the purchasing decisions made by consumers. Interviews were also conducted with other stakeholders in order to understand regulatory responses to the problem of counterfeit alcohol.
- 3 The final phase of the research was to undertake an on on-line search for potential outlets for counterfeit alcohol in order to develop an understanding of how counterfeit alcohol can be distributed via legitimate market mechanisms.

## Methodology

A useful mode of analysis for operationalising and developing systematic insight into 'how' criminal enterprise, such as distributing counterfeit alcohol, is organised, is by deconstructing the nature of the crime commission process and the actors involved to gain a more comprehensive understanding of the mechanics, actors and processes involved. This has been termed 'script' analysis (Cornish 1994) and has been recognised as a successful approach to developing analytical and prevention-focused thinking to disrupt the behaviors of organised criminals (Levi and Maguire 2004, 429). The framework enables "a careful and comprehensive analysis of the nature of the problem to be addressed, including developing a clear understanding of the various crime scenes, actors and their resources" (Levi and Maguire 2004, 457). In brief, script analysis provides a way of generating, organising and systematising knowledge about the procedural aspects and procedural requirements of crime commission. It has the potential to provide more appropriately crime-specific accounts of crime commission, and to extend this analysis to all the stages of the crime-commission sequence (Cornish 1994, 160 emphasis in original).

Thus, script analysis involves deconstructing a. what has to be done, b. by whom, and c. under which conditions in order to be able to carry out particular goal-oriented criminal activities and enterprise. For Cornish (1994, 157), criminal behaviour can be routinised, making it appear simplistic, but this routine can conceal key aspects of the organisation, sequencing and acquisition of crimes. Scripts therefore provide a way of understanding the logistical steps (not necessarily linear or sequential, allowing for flexibility and actor innovation) that take place across different scenes. Within each 'scene', different permutations of the 'facets' that make up the different ways the behaviours can be accomplished can be found. Underpinning the script approach is an assumption of rational choice for understanding offending behaviours and decisions that can be prevented by intervening with the larger situations or environments within which they take place (Clarke and Cornish 1985). Thus, the logic behind the approach is that criminality is understood as rational, goal-oriented and purposive behaviour and that by understanding the procedural aspects of these behaviours, suitable intervention mechanisms can be mapped onto their scripts. The script analysis approach has been persuasively applied to a range of criminal enterprises such as: drug manufacturing in clandestine laboratories (Chiu, Leclerc, and Townsley 2011), the online stolen data market (Hutchings and Holt 2015), human trafficking for sexual exploitation (Savona, Giommoni, and Mancuso 2013), infiltration by the Mafia of the public construction industry (Savona 2010), the switching of Vehicle Identification Numbers from wrecked to stolen vehicles (Tremblay, Talon, and Hurley 2001), illegal waste activity (Thompson and Chainey 2011; Sahramäki et al. 2017) and in conjunction with social network analysis in relation to stolen-vehicle exportation operations (Morselli and Roy 2008) and the distribution of counterfeit alcohols (Lord et al. 2017). The increasing use of this approach in relation to serious and complex crimes reflects the simple yet effective way through which the complete sequence of actions and decisions across all stages of crime commission can be identified, thereby giving a fuller range of possible intervention points that has clear crime reduction and disruption potential for law enforcement and regulatory authorities.

For example, in a case of credit card fraud, various things need doing, such as obtaining credit card details, using the details to make purchases, laundering or using the profit or goods obtained, finding people to trust to aid collaboration, and so on. In a script analysis each of these different stages are the 'scenes'. 'Scenes' can be carried out in different ways that are defined as 'tracks'. For instance, for credit card fraud, Scene 1 – 'Obtain Credit Card Details' and we could do this either by skimming the card details of someone

in a restaurant (Track 1), or by making a false application to a bank (Track 2), or by phishing on a website for potential victims (Track 3) – there are many tracks. In essence, we can apply this mode of thinking to any organised crime by breaking down what we know about the crime into different scenes and tracks, and thinking about the actors involved and the conditions that were conducive to the crime. The purpose of doing this is that it allows us to build a fuller theoretical account of the nature of criminal activities but also to identify key points of vulnerability for intervention by law enforcement e.g. where are the weak points in the crime?

## **Structure of fieldwork**

Our above mentioned script analysis was informed through data collected via multiple methods during the fieldwork phase that was structured around three main areas: information on seizures of counterfeit alcohol collected through requests for information to the authorities, the conduction of interviews to stakeholders (i.e. local authorities, the police, wholesalers and consumers), and surveys to consumers in different locations. The fieldwork also includes information publicly available such as reports, newspaper articles on seizures/prosecutions related to counterfeit alcohol, relevant legislation and regulation, and online availability of cheap alcohol.

## **Information on seizures of counterfeit alcohol**

A letter requesting information about seizures of counterfeit alcohol in the last five years was sent to UK local authorities through the Programme Director of the National Trading Standards, Director of Policy, Association of Chief Trading Standards Officers (ACTSO). We received six replies in relation to the information request providing information on the date of seizure, the kind of alcohol, and actions taken. One of the local authorities provided further information through an interview.

## **Interviews**

Data was collected through interviews conducted to local authorities, wholesalers and consumers. Through secondary resources, specifically, newspapers, we had access to information about reported cases of seizures/prosecutions of counterfeit alcohol. Local authorities involved in the investigations were contacted by email to request an interview to discuss the information. The response from the local authorities was generally positive giving access to information about documented investigations on counterfeit alcohol. However, not every local authority responded to our request. The information collected through the request for information to local authorities and interviews to diverse authorities enabled us to make connections between diverse seizures, the kind of alcohol and locations where it was available.

Through an online search, a list of wholesalers was gathered and requests for interviews were sent by email. Likewise, request for interviews were sent to the student population. Even though the response from wholesalers was not optimal, one wholesaler agreed to speak at length with us about the industry. Likewise, we had access to interviews with consumers, particularly, the student population, which provided us with valuable information about the drinking culture and the consumption of counterfeit alcohol.

## **Surveys**

We conducted surveys on the streets in sectors known for their student population, the potential availability of counterfeit alcohol (derived from information in interviews) and/or

their pub/nightlife experience. Surveys were conducted late in the afternoon or early in the evening when people were getting ready or going out for the night. Surveys enabled us to gather information about purchasing decisions, for instance, whether people were buying and consuming counterfeit alcohol knowingly, the locations where cheap (and potentially counterfeit) alcohol was available, and some of the rationales that drive the purchase of cheap and/or counterfeit alcohol.

The surveys show that consumers make purchasing decisions based on, firstly, price and secondly, particular brands. The majority of participants responded affirmatively to the question of whether they bought cheap alcohol. When asked why they thought the alcohol was cheap, the majority of respondents thought the alcohol was cheap because it was firstly, an unknown brand; secondly, counterfeit; thirdly, end of stock; and, lastly, smuggled. The surveys show that individuals consume counterfeit alcohol knowingly in diverse locations, but mostly in party with friends and festivals and outdoors events. In some occasions, individuals consumed counterfeit alcohol even when this was evident from the labels or it had been bought explicitly as such; other respondents thought the alcohol was too cheap to be authentic, but still consumed it. The locations to purchase counterfeit alcohol varied, with the surveys indicating that off-licences, online, takeaways and taxis were the most likely locations to find/purchase counterfeit alcohol. These outcomes will be dealt with in more detail below on the analysis of the market for the consumption of counterfeit alcohol.

### **Other information**

Further data was collected through online searches, for instance, public reports on the consumption of alcohol, regulatory enforcement and regional strategies to name a few. Furthermore, information about the online offer and sale of alcohol was also collected, noticing the increasing number of outlets offering discounted/cheap alcohol online or advertising takeaways (24/7 delivery services).

### **Problems encountered**

Access to data on counterfeit alcohol presents difficulties due to the illicit nature of the activity. On some occasions, problems were encountered engaging willing participants to provide information on the alcohol industry. This problem was more noticeable with wholesalers and retailers, particularly, off-licences. In the case of wholesalers, some of the most well-known wholesalers were contacted to request an interview; however, request were not answered or refused on the grounds that as a matter of policy these businesses do not engage in research. Off-licences were visited to request an interview with business owners, inclusive of businesses in areas identified by consumers as sectors where counterfeit alcohol was potentially available. Nevertheless, the majority of off-licences were uncooperative. Indeed, in one occasion, a business owner had agreed to be interviewed only to retract on the date of the interview, even though assurances were given that the information was not going to be shared with the police and/or the local authorities. There seems to be a reluctance to speak about the industry either as a precaution not to reveal information to the local authorities/police, or not to provide data about the industry to outsiders. A few participants agreed to discuss the issues as long as it remained 'off the record', this enables us to gather a better understanding of the context of problem/industry, even though we are unable to quote the data directly. However, we had access to a well-known wholesaler who was open to speak about the industry at length, as well as access to documented cases of seizures of counterfeit alcohol at off-licences/corner shops.

Through interviews with consumers, the researchers identified potential locations where counterfeit alcohol could be found. These areas were visited to identify the kind of alcohol that was on offer; however, there was no evidence of the counterfeit alcohol at the time. It is unknown whether counterfeit alcohol is available on the shelves or whether it has to be requested from under the counter, particularly as the research indicates that the information on the availability of counterfeit alcohol is often transmitted through word of mouth by consumers.

Surveys were conducted targeting diverse sectors known for their student populations, the potential access to counterfeit alcohol, or their pub/nightlife culture. Younger generations were more likely to participate than older drinkers, therefore, the range of ages for participants were mostly in their 20s and 30s as opposed to 40s to 60s. However, in terms of gender, participation was balanced. It is worth noticing the reaction of one of the participants who accepted to participate on the survey insofar as the survey was not aimed at collecting information for the implementation of the MUP. Despite these problems, the researchers had access to interviews, local authorities' seizure information, and survey data for the purpose of drawing our conclusions and recommendations.

## The case study and getting to grips with production

### Defining Counterfeit Alcohol

There are a number of illicit alcohols available, but there are differences between them. There are clandestinely distilled spirits that are made as a form of localised industry. Some cultures have a long tradition of illegal distillation, for example Ireland has a long history for the brewing of poitín – a spirit traditionally made with potatoes. This form of illicit alcohol was brewed to evade the payment of duty, in the Irish case, to an imperial power, the British. Historically the markets tended to be highly localised and relatively small. Other countries also have traditions of distilling illicit alcohol. For example, in Spain “aguardiente” (firewater) is a common local spirit made from the grape skins after they have been pressed in winemaking. Poland also has a history of illicit alcohol distillation and is commonly made from plums (Slivovitz).

There have been cases in the UK of illegal stills being discovered, usually after a dramatic event such as an explosion. In 2011 there was a large explosion at an industrial estate in Boston Lincolnshire where an illegal still exploded killing five men working there. The men were migrant workers from Lithuania. The indication in this case was that this still was organised and distilling illicit alcohol for more than just a localised market. There are few incidents of stills exploding but the presence of such stills suggests that there is a market for illicit spirit.

The other major source of illicit alcohol is smuggled alcohol. The alcohol is sourced in a tax jurisdiction with lower duty and brought into the UK and sold at a cheaper price. There are few reported cases, the smuggling usually involves the re-direction of alcohol from a legitimate destination to an illicit destination where the goods are then distributed to small off licences, corner shops and pubs. The alcohol is legitimate but the duty has been evaded.

There are three types of illicit alcohol; first, alcohol that is converted from denatured alcohol, or illegally distilled in significant quantities and bottled as a legitimate brand and distributed as such but is counterfeit. Second, alcohol, that is illegally distilled and is distributed as such, but on a localised and small scale. The distribution of such alcohol is via friendship and work based networks. Third, alcohol that is legitimate but where the duty has been evaded, usually smuggled from a cheaper low tax jurisdiction to one where tax levels are higher. This alcohol is mainly distributed using commercial small business networks.

### Case Study

#### Introduction

The case study is based on data obtained from a regulator’s investigatory files. The regulators were also available for interview. The case study explores two events of importation of counterfeit vodka from one jurisdiction to another. The vodka was discovered after a truck was searched in relation to the first event and the second event was after a regulator observed at a nightclub fake branded vodka boxes.

## **Event One**

A truck was searched at the port of entry. The manifest indicated that the load was bottled water. The 'water' was wrapped in black plastic and when inspected it was found to be counterfeit vodka of a well-known brand.

The load had been commissioned by a third party, probably acting on behalf of the owners of the consignment. The third party had simply asked a logistics company for the price of moving the consignment of 'bottled water' from A to B. The logistics company had then sub-contracted the load. This is usual business procedure in the logistics industry with contracts being sold on a number of times before an actual haulier carries the load. In this case the load was sub-contracted a number of times and the final haulier was at least 5 steps away from the original logistics company engaged and so the haulier had no knowledge of the third party who was party to the initial contract. This process placed distance between the haulier and the commissioner of the load. One consequence of this approach was that the consignment had little protection whilst it was being transported and was vulnerable to detection. Once the consignment was detected the 'exporters' were required to change their strategy and developed a more sophisticated approach to moving the counterfeit alcohol from A to B.

## **Event Two**

The network of the distribution group devised a complex structure to ensure the protection of the individuals and the consignments. A person with logistics know-how and legitimacy in the logistics marketplace was engaged to organise the transportation of the counterfeit vodka. The counterfeit product was collected by the logistics node from a storage location and delivered to legitimate logistic providers. The 'logistics node' had legitimate access to these providers and the consignments raised no questions by the logistics providers.

The counterfeit vodka was labelled as water and placed with a logistics provider who moved the counterfeit vodka, from jurisdiction A to jurisdiction B. The counterfeit product was then delivered to a holding address, on arrival it was redirected to a food wholesaler. Once delivered the consignment could be split into small consignments for distribution. The network is more structured and sophisticated as it relies on the know-how and skills of particular actors. The logistics knowledge and the legitimate access to logistic companies and networks provided good cover for the counterfeit vodka as it became part of a groupage load and thus less likely to be discovered. However, in placing the counterfeit vodka in the legitimate logistics network the owners of the counterfeit vodka lose control of the commodity. Control of the counterfeit vodka is regained once the delivery of the load is redirected to the food wholesaler. The food wholesaler also provides legitimate access into the food service industry and can either offer 'cheap' vodka or can place the counterfeit product into the legitimate market. The structure of the distribution network suggests that there are relatively easy ways to move counterfeit vodka between jurisdictions and that the risks of apprehension are low.

## **Understanding the production of counterfeit alcohol**

Data on the production of counterfeit alcohol is elusive. There appear to be a number of ways in which it is produced from reported cases, these have been mentioned above. However, there is a lack of data to assist in estimating the most prevalent forms of production, as reported cases are sporadic and provide no cohesive account of the amount of counterfeit alcohol produced from different forms of production.



There is evidence of illegal distillation; however, this form of production is fraught with risks, in particular illegal stills are often located in what are usually makeshift premises, as they are available and the clandestine nature of production results in the location being that of friends or unscrupulous landlords. The lack of basic health and safety can result in a build-up of vapour which is highly flammable, and this has been the cause of a number of fatal explosions in the UK. The most recent being in Leicester in February 2018 (BBC News:2018) . The other case is that of the explosion in Boston, Lincolnshire where there were also fatalities. The organisation of these illicit sites suggests that they were producing significant amounts of alcohol that was then sold as a leading brand vodka. Sites have also been discovered where denatured alcohol has the colouring removed in order to make it clear, it is then diluted and bottled as leading brand spirits.

Both of these forms of production require large premises, know-how and equipment in order to produce the counterfeited product. There are considerable risks attached to these enterprises. In the case of illegal distillation there is the risk of explosion and injury, there are other risks too in terms of the problems of concealing the activity and the greater possibility of detection and apprehension.

A script analysis of these two forms of production highlights the following:

#### Illegal Distillation Denatured Alcohol

	Illegal Distillation	Denatured Alcohol
Available Premises	x	x
Access to relevant equipment	xx	xx
Access to ingredients	xxx	xx
Technical Know how	xx	xx
Initial Start-up Capital	x	x
Available Labour to facilitate Production	x	xx
Managing Continuity of supplies	x	x

Table 1

x = Important, xx=Very important, xxx=Critical to operation

The physical, know-how and financial resources required to both these forms of production are relatively low. There is a requirement for significant investment by those managing the operation and the risks of detection are high due to the clandestine nature of the operation and its static form of production, being located in one place.

The analysis of the case study data indicated that counterfeit alcohol could be produced by purchasing industrial alcohol or acquiring alcohol from a legitimate distillery in a different jurisdiction. The industrial alcohol enters the jurisdiction where it is to be counterfeited legitimately as industrial alcohol. The customs and excise regulations are much less robust than for alcohol for consumption. This industrial alcohol is diluted and bottled as a leading brand and this operation is more flexible than either illegal distillation or the use of denatured alcohol.

	Illegal Distillation	Denatured Alcohol	Diluted Industrial Alcohol
Available Premises	x	x	
Premises for bottling			xxx
Access to relevant equipment	xx	xx	x
Access to ingredients	xxx	xx	
Sourcing distilled alcohol for dilution			xxx
Technical Know How	xx	xx	
Initial Start-up Capital	x	x	xx
Available Labour to facilitate Production	x	xx	xxx
Managing Continuity of supplies	x	x	xx
Sourcing counterfeit bottles and labels	xxx	xxx	xxx

Table 1

x = Important, xx=Very Important, xxx=Critical to operation

The premises required for bottling can be movable and located in more remote areas. This reduces the chances of detection as the place of bottling is not always in the same location. The only ingredients required are the distilled alcohol and water for dilution. There is little know-how required in ensuring that the dilution is one of alcohol to three of water. The importation of the counterfeit alcohol can be managed in such a way as to ensure there is a distance between importation, bottling and distribution. The dilution of industrial alcohol has far less risk attached and is an easier process to manage. It is also easier for the counterfeiting process to remain clandestine.

The case study data suggests that there is a clear demarcation between the production and distribution of counterfeit alcohol. It is not necessary for the same people to be involved in both activities. The data from the case study includes the following scenario. The counterfeit vodka was collected by the logistics node in the network. The location of the collection point was never made available (possibly because no one asked the question). The logistics node delivers the counterfeit vodka to the logistic hub. Therefore, the origin, authenticity and provenance of the vodka were never brought into question. The logistic node was working for the owners of the vodka, however, it is also unclear from the case study data how and when they acquired the vodka, they may have been involved in its importation, dilution and bottling or they may have bought the consignment once it had been counterfeited. The organisers were solely distributors within the market.

Gaining insight to the production of counterfeit vodka is elusive. The analysis demonstrates that the strategy with least risk is to purchase industrial alcohol, or distilled alcohol, and dilute, bottle and distribute. Every other strategy has higher levels of risk attached, however, there is a lack of data that can draw on a series of cases studies to understand in more detail the production process.

## Findings

The findings from the project can be divided into three distinct areas; the distribution of counterfeit alcohol, the consumption of counterfeit alcohol and the structure of the markets in counterfeit alcohol. Interviews were conducted with Trading Standards Officers who had been involved in seizures of counterfeit alcohol, and with consumers.

There were difficulties in obtaining interviews with Trading Standard Departments where no seizures had been made, they considered it not relevant and not a specific issue to their work. HMRC were also approached and a request for them to be involved in the research but they declined.

### Case data

The seizure of counterfeit alcohol was in every case in the form of vodka. It is the easiest of the spirits to counterfeit as it is generally of little taste and clear. In Case A the vodka was an own brand. The brand is available to independent retailers. The brand owners provide purchasing services to independent grocery retailers to enable them to be competitive in what is a highly competitive marketplace. A customer bought two bottles of the retailer's own brand and because 'she was not getting drunk on it' she returned to the shop and the owner Mr AG ignored her complaint and so the customer went to Trading Standards. The retailer was 'known' to Trading Standards inasmuch that there had been a previous incident concerning the sale of past sell by date foodstuffs. In Case B (located in a popular holiday town) there had been a number of seizures over a three year period from various premises. The vodka was counterfeit of a popular cheap brand. The source of the fake vodka in Case B was difficult to locate and there was a gathering of intelligence over the three year period that allowed for Trading Standards to set up a purchase of the fake vodka. In Case C Trading Standards received intelligence that a local taxi driver was selling vodka, wine and cigarettes from the back of the taxi. The vodka was counterfeit and was a brand of a large Cash and Carry company. In each of the cases the vodka was of a low price brand. In the case study (above) the vodka was also one of the low priced brands and a mainstream vodka brand.

- *Finding:* Cheaper brands, and 'own brand' vodka appear to be the most vulnerable to counterfeiting. One Trading Standards officer expected luxury brands to be more vulnerable, however, there is no indication of this from the data.
- *Finding:* Trading Standards officers appear to rely on intelligence in cases of counterfeit alcohol or on a consumer complaint. There is no case where the counterfeit vodka was discovered through routine visits to retailers. In the Case Study the vodka was discovered by the officer being 'sharp eyed' in seeing counterfeit packaging.

In each of the cases (A, B and C) there was no data on how the retailers and taxi driver were supplied. In Case A the store owner had purchased the vodka cheaply from a wholesaler some 200 miles away. The retailer was able to provide an invoice for the transaction. The wholesaler existed but the invoice was 'fake'. The wholesaler did not sell the brand in question so confirming the invoice as fake. The vodka was delivered to the purchaser by 'a man in a white van'. In Case B where the Trading Standards officer posed as a customer, he was able to arrange for the delivery of the vodka to what would be considered a legitimate site. The vodka was ordered via phone and it was delivered, it was considered to be part of the daily deliveries:

“..they didn’t suspect anything different from their daily duties, really. Deliver alcohol to off-licences, on-licenses and hotels in the area” (TSO B)

As Trading Standards were investigating the case the trade ceased and so the investigation halted. Sometime later the trade resumed and again an order was placed, but they refused to deliver, and it had to be collected from a local convenience store. In Case C a similar pattern is evident:

“He was adamant that he was supplied by a white van driver and he had a telephone number he phoned.... obviously he knew the people. He said that was the way it happened and how to get hold of the alcohol.” (TSO C)

In cases B and C it was evident that the vendors of the alcohol, a taxi driver and the undercover operation engaged in by Trading Standards that the counterfeit alcohol was in a regularised supply chain. This suggests that there is a flow of supply. The taxi driver had a store, a garage lock-up, and it was suspected he had a regular customer base:

“We don’t know whether he had regular customers or whether he was selling generically to anyone who got in the back of his cab. We think he was selling to regular customers, people he knew.” (TSO C)

A taxi provides a legitimate cover for the sale of illicit alcohol and other goods. A taxi raises little suspicion when it is about late at night and can enter all areas of a city without raising any suspicions of individuals or the police.

In Case B the delivery was by a white van going about legitimate business. This highlights how counterfeit goods are integrated into the mainstream activity and appear legitimate. This was also the case in Case A where the store owner bought the correct brand but not from the usual source. In some respects, alcohol has to be integrated into the legitimate market to ensure it has a level of authenticity. Consumers might be wary of buying counterfeit alcohol, more so than counterfeit cigarettes<sup>1</sup>.

- *Finding:* The distribution of counterfeit alcohol is a very opaque supply chain and it is difficult for Trading Standards officers to trace back more than one step. This hinders prosecution and makes the understanding of distribution networks complicated.
- *Finding:* If the distribution network is opaque and complicated to map owing to lack of information it makes the production networks very hard to access.
- *Finding:* The integration of counterfeit alcohol into the market as ‘legitimate’ product is critical. Therefore, it can be difficult to locate the point of deception. In Case A was the shop owner deceived at the point of purchase or did he know that the alcohol was counterfeit because of the price?
- *Finding:* There are certain activities that provide a cover for illicit distribution, taxis and also delivery vans delivering legitimate goods to businesses.
- *Finding:* The distribution methods make it complex to trace the supply chain back from the point of delivery.

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<sup>1</sup> Other counterfeited items for example watches and handbags are purchased in the full knowledge that they are counterfeit.

Investigating the distribution of counterfeit alcohol is time consuming and expensive. For many Trading Standards offices it is not a high priority:

“What is the current priority level on counterfeit alcohol in your jurisdiction?”

“We are not looking for it. If it is brought to our attention we will do something about it. But we are not looking for it.” (TSO A).

Another Trading Standards officer commented:

“The challenges specifically now are resourcing...with regard to the current situation regarding the cuts to local authorities and then to Trading Standards...We have a diminishing pool of officers who have the expertise to deal with that type of work...we don't have the resources and the staffing levels we once used to have.” (TSO B)

The Trading Standards Officer in Case C commented:

“The challenges, I think it is the resource issue of trading standards, and it is like that across most of the country. The Trading Standards offices in this area had 53 officers now they have 13...you are not going to have the same level of enforcement and investigation.” (TSO C)

- *Finding:* Recent cut backs to Local Authority funding have impacted on the capacity of Trading Standards to investigate activities other than those which receive a high priority. This can make the distribution of counterfeit alcohol less risky for those engaged in this activity.

In Case B the supply of counterfeit alcohol ceased for a few months. It was unclear whether this was because there was a concern by the distributor that they were being watched, or whether their supply chain broke down. The Trading Standards officer thought it might be that the source was raided and so the supply chain was disrupted.

“I was never unfortunately able to find for circumstances how the operation was being run...The hunch is that it might be connected to the bigger jobs.” (TSO B)

What is consistent across the three cases described here is that it was very difficult for Trading Standards officers to explore the distribution system as they were never able to trace the source back more than one step. However, the case study does provide some insights into distribution and this will be discussed separately.

## Consumption of counterfeit alcohol

The research shows that there is a market for the consumption of counterfeit alcohol. Even though more specific information about the profile of consumers remains unknown, the data collected indicates that the purchase of cheap (and potentially counterfeit) alcohol is mostly driven by economic factors, where price ranks highly as one of the main factors taken into account when making purchasing decisions. As the rationale is mainly economic, the consumption of counterfeit alcohol affects certain types of consumers more than others, different age groups, the lack of access to economic resources and location. These factors are important indicators of viable markets for the distributors and sellers of counterfeit alcohol. Furthermore, the market for the consumption of counterfeit alcohol is affected by changing purchasing patterns (e.g. the Internet and takeaways (24/7 delivery services)). Consumers have access to counterfeit alcohol through different sources, some of whom purchase and consume counterfeit alcohol knowingly.

### Types of consumer

The research identified different types of consumers determined for example by age group (i.e. student populations and older 'committed' drinkers). The research indicates that student populations were more open to discuss their purchasing decisions, and therefore, the consumption of counterfeit alcohol, both knowingly and unwittingly. Economic factors were usually cited as one of the main reasons to purchase cheap (and potentially counterfeit) alcohol. However, there were other factors that drove the consumption of counterfeit alcohol amongst students. The consumption of counterfeit alcohol seems to be related to a drinking culture where certain age groups have tried counterfeit alcohol as part of a group. Moreover, the consumption of counterfeit alcohol amongst students seems to be linked to heavy drinking practices where cheap (and potentially counterfeit) alcohol is a means to the objective of getting drunk.

“it is usually pre-drinks or before we go to the bar. We usually start drinking beforehand, that is usually when I got to buy alcohol” (Consumer B)

This respondent had seen counterfeit alcohol at events described. When asked how they knew it was counterfeit they replied:

“I have seen a few bottles of (Brand) where the name is spelt wrongly. The label is a bit weird, you can tell it is not real” (Consumer B).

Pressures to consume counterfeit alcohol as part of a group, whilst daunting the first time, seem to become normalised insofar as nobody feels ill or there are no fatal consequences, further turning into other counterfeited products such as tobacco. Amongst these student groups, the consumption of counterfeit alcohol will take place during drinking sessions prior to an evening out. Respondents mentioned that on some occasions counterfeit alcohol would have been purchased knowingly. The sourcing of counterfeit alcohol appears to take place via word of mouth. This is the way in which the respondents gained knowledge of where to purchase counterfeit alcohol. Local corner shops known for selling counterfeit alcohol were identified by word of mouth. Online sources were also shared in this way. Respondents were aware of the counterfeit nature of the alcohol as it was evident from basic mistakes on the bottles. Some respondents considered that the consumption of counterfeit alcohol could also occur unknowingly through the purchase of cheap branded alcohol, or through consumption at venues such as pubs and nightclubs.

In this regard, older 'committed' drinkers seem to show some of the same behaviours as those of students. The purchase of cheap alcohol would be determined by economic factors (specifically price) as well as by a drinking culture. Whilst some would consume counterfeit alcohol knowingly (e.g. evident from the bottle or content), the potential consumption of counterfeit alcohol would be triggered by the purchase of cheap alcohol. There seems to be a perception that alcohol is cheap because it is a) an unknown brand; b) counterfeit; or, c) smuggled. These perceptions are interesting because they show some of the purchasing decisions that consumers make when buying alcohol and there are a number of observations that derive from these practices.

First, well-known brands are not the only brands to be counterfeited. There are a number of cases affecting wholesaler's brands. These brands share, with the well-known brands, being competitive on price and at the lower priced end of the market. Second, there have been seizures of unknown brands at production sites. The problem for counterfeiters in placing unknown brands into the market is that they meet resistance from consumers. It appears that consumers are wary of brands they have not encountered and are more considerate of known brands. This may be one reason why the lower priced, high volume brands are more vulnerable to counterfeiting. This observation raises an interesting question in relation to the psychology of consumers. Does an unknown brand suggest to consumers counterfeited product whereas a known brand with an obviously 'dodgy' label provides more reassurance as to authenticity? Third, there is a perception amongst consumers that counterfeit alcohol is a victimless crime because cheap alcohol is smuggled, or duty evaded. Respondents suggested that counterfeit alcohol, particularly counterfeited brands would be expected to be found and consumed in other countries.

Respondents suggested that counterfeit product would not be an issue in the UK. An explanation for this view could be that consumers have trust in a regulatory system that they consider provides protection from counterfeit goods. A further reason may be that the spread of counterfeit alcohol is not uniform across the country and so there are areas where no counterfeit product is found, even where suitable market conditions exist. It is also apparent that the purchasing of counterfeit alcohol is reliant on word of mouth consumer networks that not all respondents were able to access. Finally, price is an important driver for the consumption of counterfeit alcohol, there will be occasions in which counterfeit alcohol is placed in the market at a regular or marginally lower than average prices at retailers. Therefore, price does cause suspicion as to authenticity or provenance. A consumer would have to suspect that the purchase was not authentic, because of lower strength or a packaging error, to suspect that the alcohol is not genuine. If the seller has also bought the product in good faith (as in Case A) the discovery of the counterfeit product is unlikely.

### **Areas of consumption (Locations)**

Economic drivers structure the market for consumption of counterfeit alcohol as there are populations that are more susceptible to purchasing cheap alcohol. An example of this are areas with a high number of student residents. Another example are less affluent economic areas where cheap alcohol provides savings and also access to alcohol that if the regular price is paid it lessens access by legitimate purchasing. Other areas that have a high concentration of transit population (e.g. some coastal cities/areas known for their night-life/festivals) that could be targeted as people visiting those areas may be looking for a 'good experience' as part of a drinking culture, therefore, being more exposed to cheap (and potentially counterfeit) alcohol. These populations may conflate, for example, students would be looking for cheaper or more affordable housing, this was reflected in one of the survey areas.



Less economically advantaged areas provide different retail outlets. There are more likely to be shops that are selling cheap food, close to the sell-by date or food of a poor quality. These shops tend to be independently owned and are not reliant on large supermarket supply chains. They purchase from Cash and Carries, food wholesalers and wherever they can source the products cheaply to maximise their profit. There are also more likely to be independent, small, off-licences selling alcohol as cheaply as possible. It is these outlets that are more vulnerable to selling illicit forms of alcohol. Smuggled alcohol that allows for a cheap re-sale or on occasions counterfeit spirits that can be accessed cheaply and sold cheaply but also at a profit. Therefore, not all residential areas are equally vulnerable to illicit alcohol. The market is stratified according to social class with the less economically advantaged areas being more vulnerable. It is likely that the purchasing decision is one made on price rather than authenticity or provenance. An analysis of seizure information supports this assertion that the markets are stratified in terms of economic well-being.

### **Consumer trends: the internet and takeaway services**

Consumption patterns are changing with the Internet seemingly impacting on the purchase of alcohol. There is an increasing number of online purveyors that reflect the changes in consumers' shopping behaviours. It is anticipated that the Internet market structure will bear a resemblance to the 'real-time' market. There will be on-line retailers who have integrated and verifiable supply chains direct from brewer or distiller or from authenticated sources of supply able to verify the provenance of the alcohol they sell. The linkage between on-line selling and the possibility of illicit alcohol is in the use of especially designed on-line alcohol delivery services that are available 24/7 and where the cost is low.

There are numerous on-line alcohol providers located across all areas of the country. Many of the companies appear to have national coverage and those easily available on the web are no doubt suppliers with integrity and clear lines of supply that verify source. However, it would be possible for those distributing illicit alcohol to utilise web-based technologies as a means of extending their customer base. Whilst this is possible the research suggests that illicit alcohol is in most cases sourced via social networks and verification by word of mouth.

### **The minimum unit price and the market for consumption of counterfeit alcohol**

The introduction of the minimum unit price (MUP) in Scotland on May 2018, and its potential introduction in England and Wales needs to be further addressed. Whilst the impact of the MUP is beyond the scope of this research, there are a number of questions that require further assessment. Beyond the regulatory impact, consumers would most likely continue to search for cheap alcohol. Hence, it is unclear how the MUP would deter them from purchasing cheap (and potentially counterfeit) alcohol as consumers generally accepted that they would continue to purchase cheap alcohol despite its implementation.

Consumers seem to have the perception that cheap alcohol would still be available, for instance, in off-licences. These perceptions raise interesting questions of whether there could be a link between the introduction of the MUP and an increase in the consumption of counterfeit alcohol – be that smuggled or fake alcohol. Indeed, it is worth noting that in

one occasion a participant answered the survey only once the researcher had explained that the project was not focused on the introduction of the MUP, but on the consumption/distribution of counterfeit alcohol. This reaction to the MUP is interesting because it seems to be linked to the economic drivers and drinking culture that impact on the market for consumption of cheap (and potentially counterfeit alcohol). Whilst it is too early to assess the impact of the MUP, these questions would have to be addressed in the future if the MUP were to be implemented more broadly.

## Regulatory responses

The research shows that there are a number of problems in the regulation and enforcement of counterfeit alcohol – that is, from the fragmentation of regulation and enforcement to the lack of resources (beyond financial cuts). Likewise, there seems to be a general misperception that the consumption of counterfeit alcohol occurs because consumers believe that the alcohol is smuggled or stolen, and therefore a victimless crime; however, the research indicates that some consumers would purchase counterfeit (and potentially fake alcohol) knowingly. Regulatory and enforcement approaches require a better understanding about the market for distribution and for the consumption of counterfeit alcohol in order to target their limited resources to the enforcement of crimes related to the production, distribution and sale of counterfeit alcohol.

### **Regulatory and enforcement approaches to counterfeit alcohol**

Regulatory responses to counterfeit alcohol are reactive. Authorities would only act upon intelligence or a consumer complaint. Hence, the authorities rely on those purchasing the alcohol – either the business owner who is buying the alcohol from an unknown and unregistered seller (white van man) or from the consumer that in some cases would be looking for cheap alcohol. This reactive approach to the enforcement of counterfeit alcohol inhibits dealing with the roots of the problem as most likely the bottles of counterfeit alcohol would only be seized to protect the consumers, but only in very limited cases the authorities would have the resources and intelligence to pursue further investigations regarding the supply chain. These limitations derive from a number of factors.

First, the fragmentation of regulation and the enforcement of counterfeit alcohol complicates the investigation and prosecution of cases of counterfeit alcohol. A number of authorities are dealing with counterfeit alcohol: HM Revenue and Customs (HMRC) deals with duty evasion, whilst trading standards focuses on compliance with standards generally (inclusive of intellectual property issues) and environmental health foregrounds the safety of a product. Likewise, the police can be involved in investigations and prosecutions regarding counterfeit alcohol. This fragmentation requires coordination from every authority in order to pursue investigations and potential prosecutions. Despite efforts to increase coordination, diverse authorities prioritise the investigations of counterfeit alcohol differently. On one occasion, for example, a production site, where fake vodka was being produced with screen wash, was raided by the police in collaboration with trading standards. The police took the lead of the case as there was neither an intellectual property infringement (unknown brand) nor a safety concern as there was no evidence that the product was found at retail. However, so far the police investigations had not led to prosecutions. Thus, even when coordination exists, the enforcement and prosecution of counterfeit alcohol cases depend on the extent to which counterfeit alcohol is prioritised by the relevant authorities due to factors such as resources (both financial and in terms of expertise), the kind of intelligence available, and other priorities within their activities. A further issue involves which authorities have ownership of counterfeit alcohol investigations. For instance, counterfeiting involves concerns over health and safety (e.g. harms caused to persons consuming counterfeit products), consumer rights (e.g. the right purchase authentic products), fraud (e.g. deception for financial gain) and intellectual property (e.g. large brands losing profits). Correspondingly, counterfeit alcohols can fall within the remits of various agencies such as trading standards, local and national police, the Food Standards Agency and public health. Many of these agencies respond to the issue not as a criminal law issue but as a regulatory violation. Furthermore, even where criminal law enforcement agencies do take

on such cases, they have an internal perception within enforcement cultures of not being serious crimes when compared to other forms of criminal behaviour such as interpersonal violence, drug production and sales, or property theft.

Second, the general perception seems to be that there is sufficient regulation in place to deal with the problems of counterfeit alcohol. However, the problem is one of resources. Budgetary cuts have left local authorities with limited number of officers and financial resources to fulfil with their statutory obligations. The Food Standards Agency Annual Report on UK Local Authority Food Law Enforcement (1 April to 31 March 2017) highlights that 21% of local authorities had more than 20% of the new food establishments awaiting their initial inspection as regards standards. Therefore, local authorities have become more reactive to their statutory obligations, thus acting upon intelligence. The lack of resources has affected inspection powers, prolonging the time between inspections to business operators (corner shops and off-licences), particularly those considered to be low-risk. This creates opportunities for some traders/business owners to engage in deviant behaviours, where the risk of being caught is low, and if caught, the odds to be prosecuted remain limited. The rationale being that business owners would most likely blame a distributor – a white van man – for supplying the deviant product, leaving the authorities without sufficient evidence/intelligence to continue investigations. Usually, once the brand owner confirms the content of the bottle is genuine and there are no safety concerns for the consumer, the case would be terminated with the seizure of the bottles and a warning for the business owner, except for cases involving a considerable amount of bottles and/or recurrent offenders, where licenses can be revised or revoked.

Third, there is insufficient evidence to show the whole supply chain for counterfeit alcohol from production to point of sale. However, there seems to be a perception that the product is coming into the UK from elsewhere, most likely, Eastern European countries. This perception prevents taking a more proactive approach to the investigation of cases related to the production of counterfeit alcohol. Although there have not been many raids involving production sites, authorities have been able to identify a reduce number of production operations in the UK. In this regard, traceability requirements are inadequate to go back through the supply chain, particularly when business owners fail to comply with record keeping, or use paper trail; or, as on one of the aforementioned cases, provide forged invoices, some of which from legitimate businesses operating across jurisdictions.

Finally, the priority level of counterfeit alcohol depends on the jurisdiction as well on the level of the market where counterfeit alcohol is found. Evidence shows that whilst some jurisdictions continue to have counterfeit alcohol as a priority, other jurisdictions have shifted their priority to other products (e.g. tobacco) due to a decrease in the number of seizures. As economic factors can make some jurisdiction a ready-market for the sale of counterfeit alcohol, the priority for local authorities in these areas would remain high. However, whilst the number of seizures of counterfeit alcohol seems to have decreased, there is no certainty whether this tendency is due to a real decrement on the sale and consumption of counterfeit alcohol, or a result of the reduced number of, and the length of time between inspections, as a consequence of budgetary/staffing cuts. Furthermore, the investigation of seizures of counterfeit alcohol would be prioritised depending on the level of the market where the counterfeit alcohol is found, in which the seizure of bottles at the point of retail would most likely not lead to a prosecution unless there is intelligence to link such seizure to a middle-market distributor or manufacturing case. Seizures may fulfil with the objective of protecting the consumer from potentially dangerous alcohol. Nevertheless, by taking the product out of the market, without more

stringent penalties for those involved in the sale of counterfeit alcohol, it will be difficult to deal with the roots of the problem in a market for the consumption of cheap (and potentially counterfeit) alcohol.

### **Taking steps toward the regulation of counterfeit alcohol: new regulatory measures**

Regulators are taking steps to deal with problems of counterfeit alcohol through diverse measures, for instance, the introduction of the MUP in Scotland and the Alcohol Wholesaler Registration Scheme (AWRS). On 15 November 2017, the UK Supreme Court confirmed that the Alcohol (Minimum Pricing) (Scotland) Act 2012, which introduces the MUP is legal. The MUP entered into force on 1 May 2018 as a means to address health issues resulting from heavy drinking in Scotland by ensuring that alcohol is sold at a sensible price. Since the MUP has been recently implemented, there is no evidence to determine whether the MUP will reduce the sale/consumption of cheap alcohol. One of the main concerns, and potential consequences of the implementation of the MUP, is the impact on the distribution, sale and consumption of counterfeit alcohol – that is, an increase on counterfeit alcohol (smuggled) or the emergence of alternative outlets to have access to counterfeit alcohol. These questions would have to be addressed in the future research, particularly if England and Wales were to introduce similar policies.

Furthermore, HMRC introduced the AWRS in April 2017, where alcohol wholesalers need to be registered to sell alcohol, and retailers ought to ensure that wholesalers from whom they purchase alcohol hold a registration number from HMRC. The objective of the scheme is to address alcohol fraud. However, the introduction of the scheme raises a number of questions. Whilst wholesalers view the introduction of the scheme as a good measure to deal with rouge traders, the opportunities for the latter to operate would still exist. Local authorities view the scheme as an additional measure to address compliance, particularly from business owners purchasing alcohol from ‘unknown’ sources (white van man). However, AWRS will most likely be insufficient to eradicate the practice as some business owners would purchase from registered wholesales, whilst still getting cheaper alcohol from unknown sources insofar as there is a market for the distribution and consumption of cheaper (and potential counterfeit) alcohol.

The Licensing Act 2003 (England and Wales) regulates both premises and persons. However, as the alcohol offer is made more mobile, with an increasing amount of takeaways (24/7 delivery services) available, the inspection and enforceability of these outlets would be more difficult to operationalise. This kind of outlets create ready-made markets to place in the market counterfeit alcohol. Given the authorities’ limited resources, not only financially, but also in terms of expertise and staffing, there will be more reliance on intelligence. Therefore, the authorities need to re-think their strategies in order to target their resources more efficiently.

### **Capable guardianship**

Regulators, local authorities and the industry itself can jointly be capable guardians, whose actions can prevent the distribution and consumption of counterfeit alcohol. The industry has a vested interest in the prevention/enforceability of counterfeit alcohol due to the unfair competition that rouge traders can create. The industry can act as capable guardians by spreading the word when there are suspicions that a wholesaler is involved in inadequate practices. In so doing, the industry can provide an important source of intelligence. However, this kind of cooperation between the industry and the authorities

may not operate at every level of the market. Business owners at the lower-end of the market could be more reticent to share information with the authorities. Generally, the research encountered problems to speak to wholesalers and business owners, with one business owner retracting from an interview over concerns that researchers would provide information to the police or other authorities. Without this valuable intelligence, the authorities would be less capable to address the problems of counterfeit alcohol as a consequence of their limited resources, and their reliance on intelligence and consumer complaints. Increasing coordination between the diverse authorities and the industry will be necessary to deal with the production, distribution and consumption of counterfeit alcohol. The coordination and approaches taken by the authorities will gain more significance in light of Brexit, particularly if there is no-deal with the European Union, due to the impact that Brexit will have in terms of access to valuable information, the enforcement of customs checks and the stress to general resources.

## Understanding counterfeit alcohol markets

The market in counterfeit alcohol can be viewed as similar to that of counterfeit cigarettes. The data from the case study suggests that the market is fractured and that there is a clear distinction between the production activity and distribution. If this is the case we would anticipate that there is a discreet production network where the alcohol is distilled, or cleansed of unwanted additives (for example the cleansing of screen wash) as in denatured alcohol and the dilution of industrial alcohol or smuggled distilled alcohol from another jurisdiction. There are cases of each of these types of forms of production, this suggests that there are a number of production strategies, however, they are not easily analysed as we have little or no data on how such production operations are managed and organised.

The lack of data concerning production indicates that the production of counterfeit alcohol occurs in a number of locations. In case C Trading Standards officers were called to a production site by the police. The officer describes it in the following terms:

“When we arrived there was basically this warehouse full of screen wash. Literally some of the containers had the name of the car manufacturer on the actual 1000L....So when we got there were lots of 1000L containers, some of them were still full, there were bottles, empty bottles, labels, facilities to hook in labels onto the bottles...It was a full on start to finish bottling plant.....it would have been very capable of processing a lot of ‘vodka’.” (TSO C)

The Trading Standards officer was asked if they gained any intelligence or understanding of how this plant linked to other forms of production or distribution. The response is interesting:

“No, primarily because it became a police matter and the police took it on. We attended from a counterfeit point of view...but it wasn’t a tested brand, it was a kind of developed brand if you like, a straightforward vodka type. So, we weren’t interested because it wasn’t counterfeit per se.” (TSO C)

This does appear to have been an opportunity to gain access to information concerning the link between distribution and production but it was not pursued. The brand being produced was not discovered in retail outlets:

“They obviously produced a lot of quantity, I think, around 50000L. That is a lot of bottles to be produced but it never materialised probably because it is a two tier brand, so, it could only have been sold in independent off-licences...so unless somebody complains about it would probably never go on Trading Standards radar.” (TSO C).

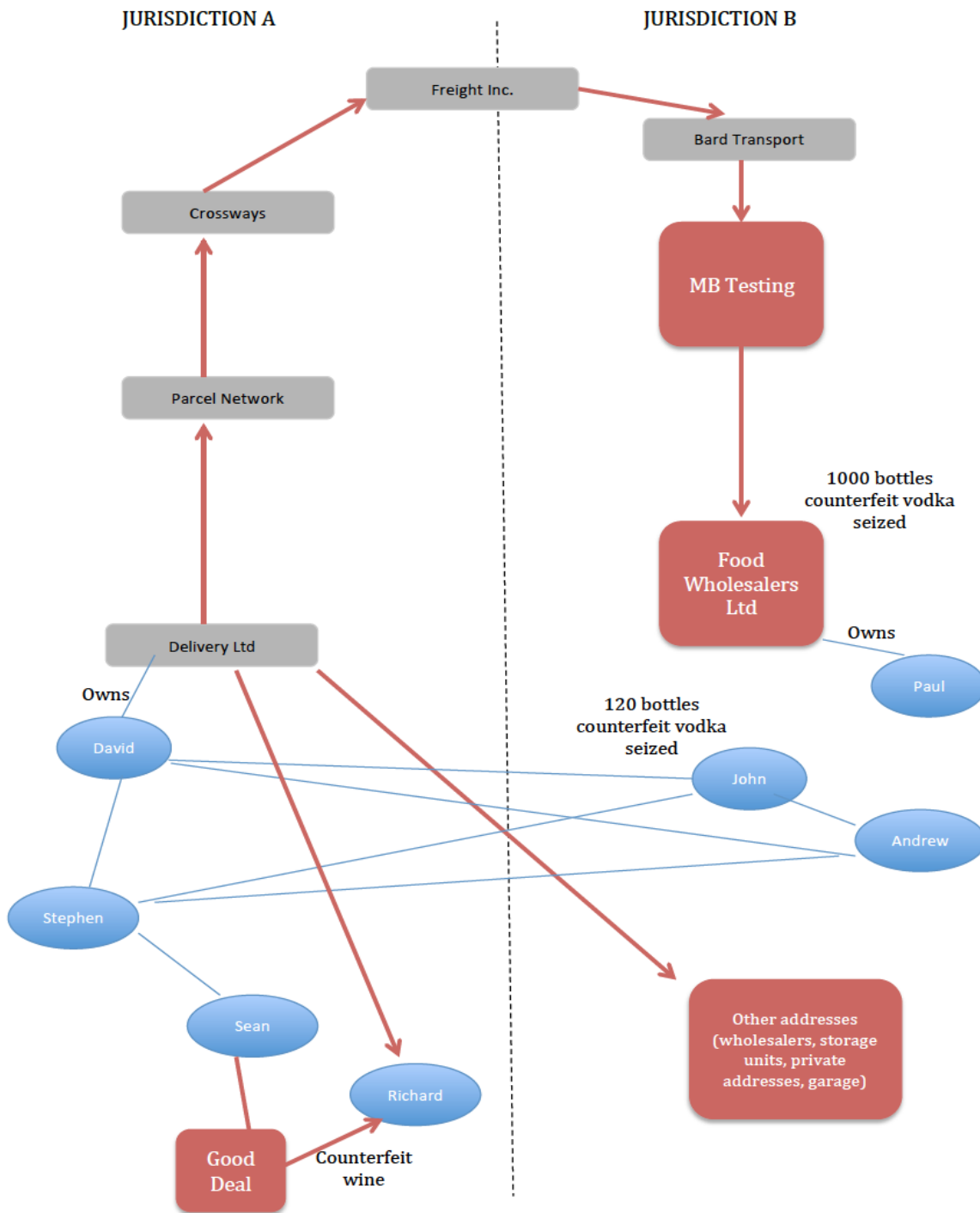
This suggests that those small independent retailers are relatively free from regulatory oversight and so are able to sell illicit forms of alcohol unimpeded. The only thing that brings such retailers to the attention of the regulator is a complaint by a consumer. This means that the retailer can purchase from ‘white van man’ and have no responsibility for substantiating their supply chains.

In all cases (A, B and C) and in the Case Study there is a lack of data concerning production. It is not possible to link the distribution to a particular production site and so the origins of counterfeit alcohol are essentially unknown. The alcohol could originate from an illegal still, from a cleansing plant or it could be smuggled alcohol diluted and bottled as a large brand. However, in each case the quantity is not insubstantial.

This raises the question of what is the volume of counterfeit alcohol on the market? There are few seizures, but as noted above it may be that the alcohol is at a point in the market where it does not come onto the regulator's radar. This makes the sizing of the counterfeit alcohol market problematic. It may be that it is located in particular areas and that the amount in terms of total alcohol consumed is relatively small. If this is the case the lack of seizures would be indicative of the amount of counterfeit alcohol in circulation. It is important that we are careful not to over-estimate the size of the problem, however, as reported by respondents, the reduction in resources and the demands of other priorities results in episodes of counterfeit alcohol being responded to rather than it being a priority in its own right that is policed with a pro-active strategy.

The distribution market in counterfeit alcohol appears to be dependent on integrated networks of distribution. What is evident from the cases reported here and the case study is that it is complicated for Trading Standards officers and police to trace the origin of counterfeit alcohol. In the case study we were able to provide a network analysis of the data that linked people together with product and location. This enabled an understanding of how the market is established and it indicated that there were linkages between different nodes and different locations. The distribution of the counterfeit vodka is structured in a way that allows for market penetration and yet the actors to remain at a distance from the point of delivery. The following diagram outlines how the vodka was moved between the different jurisdictions:





David is the logistics node and he owns Delivery Limited, a logistics company located in jurisdiction A. David has connections with Stephen, Sean and Richard who have been involved in the sale of counterfeit wine (wine that did originate from its stated area of origin) through a trading website. David and Stephen also have links to John and Andrew in jurisdiction B who are the final receivers of the consignment of counterfeit vodka that David agrees to move for Stephen. This diagram shows that the counterfeit vodka is simply moved from one jurisdiction to another utilising legitimate logistic networks (represented in grey) and the counterfeit vodka is returned to the 'owners' once it enters the brown areas. This suggests that this supply chain is robust, once in jurisdiction B it is then broken down into smaller consignments and distributed to off-licences, corner shops and night clubs.

The diagram represents the movement of a significant consignment and this is the property of Paul, who is also connected to John and Andrew. The data suggested that Andrew was involved in the distribution of the smaller consignments and Paul as a food wholesaler is able to distribute some the counterfeit vodka through this business either as 'legitimate' product or to acquaintances as illicit vodka. However, the investigation did not fully explore the distribution mechanisms from the food wholesaler.

When we combine this data with the Cases A, B and C we can discern a pattern of distribution of the smaller consignments. In all cases those apprehended with illicit product claimed to have bought the vodka from a man in a white van. The taxi driver in Case C was thought to have regular customers and was selective in relation to his customer base, this may suggest that he was cautious and had a limited supply, there was little or no surplus to his order requirements. In relation to case B the delivery was from a white van and in Case A the purchase was made from a wholesaler who was using fake invoices. It is not known whether the fake invoices were used to provide cover for the purchaser or were used to convince the purchaser that it was a legitimate transaction.

The data suggests that the distribution of counterfeit alcohol is on a substantial scale with there being networks of people involved in the movement of significant quantities of the product to locations where it can be broken down and distributed to local areas either for further distribution or direct to sellers. Where the networks exist may indicate that there is a consistent supply chain of counterfeit alcohol entering the market place. However, it is important to understand this market place in more detail. The consumers are motivated, essentially, by low cost. The points of purchase are either via local social networks, as in Case C (taxi driver) or through small independent retail outlets that are able to purchase outside of their normal supply chains without question or are prepared to buy from sources that are not able to guarantee the authenticity of the product. It is feasible that each borough or local government area could map such outlets and use this information to begin building intelligence in relation to potential areas where counterfeit alcohol could be sold. It is apparent that the distribution of counterfeit alcohol is not random but is targeted to areas where there is a lack of capable guardianship and where there is a demand for cheap alcohol.

It is also possible that supply chains of illicit alcohol are episodic. There may not be a consistent supply of counterfeited vodka. This may be due to supply shortages, breakdown of the various production and distribution networks and the loss of a consignment through law enforcement activity. The failure of a supply chain is disruptive to the consumer, however, in relation to the provider this may not be damaging as they reinstate supply when they are able to provide illicit product. It is possible that the supply of illicit alcohol is not confined to one type of product. A provider may be able to supply counterfeit vodka and smuggled vodka for a similar price. In fact, they could maintain a price uniformity between both types of illicit alcohol. This would assist them in maintaining the market and may reduce consumer anxiety over the provenance if they are not aware of the authenticity of the product. We found no cross over between smuggled and counterfeit alcohol in the cases or case study, but this may be because regulators fail to look for a market that supports both types of illicit alcohol distribution. If this is the case, then the introduction of counterfeit alcohol to the market is a supplier strategy to maximise their profit. Illicit alcohol, whether counterfeit or smuggled, meets the market criteria of cheap alcohol and so the buyer is unaware of the provenance of the alcohol they are buying.

## Conclusions and recommendations

The research has thrown some light on the distribution and consumption of illicit alcohol and in particular counterfeit alcohol. One reason for the consumption of counterfeit alcohol is because it meets the criteria of cheap alcohol for those consumers that do not have the economic resources to purchase alcohol via retailers where the supply chain is verified. This suggests that there are specific markets that are more vulnerable to the sale of counterfeit alcohol. We anticipate that these markets are located in less economically advantaged areas as cheap alcohol provides access where it is denied in the traditional and verified markets. These markets are structured around small independent retailers that are less prone to regulatory scrutiny, especially in the present economic circumstances of austerity.

This is associated with the lack of resources available to regulators. Trading Standards Offices and Environmental Health Offices have a raft of statutory responsibilities that they are experiencing difficult in meeting. Consequently, proactive operations to search for illicit alcohol are unlikely to happen as the resources are not available for such operations. It also needs to be remembered that such operations come with investigative and prosecution costs and so the motivation to undertake proactive operations of this nature must be low. One regulator commented that there was a lack of response when there was a request for information and intelligence from another regulatory body after a seizure. The response this suggests is one of ignoring the issue and responding only when it is necessary to do so.

Regulators have commented that investigations, when undertaken, are difficult to mount because of the need to work across different agency boundaries and at times across jurisdictions. It is also apparent from the regulators that in these multi-agency investigations it can be difficult to identify the lead agency and on occasions an investigation can be taken over by one agency that seems to exclude other relevant agencies. This is not just a feature of these counterfeit alcohol investigations but is common across many multi-agency investigations where there is no lead investigation agency and where the resources for the investigation are limited and not shared equally.

All locations are not equally vulnerable to counterfeit alcohol markets. In the more affluent areas, there will be more economic resources to purchase alcohol via retailers where the supply chain can be verified. This finding should assist regulators in targeting investigative resources more effectively.

*Recommendation 1: To understand in more detail the size of counterfeit alcohol markets it would be beneficial to undertake research in areas that are vulnerable to the sale of counterfeit alcohol.*

Due to the limited resources of Trading Standards Offices and Environmental Health Offices there are few, if any, proactive investigations of counterfeit alcohol distribution. As noted above, Operation OPSON notes the volume of counterfeit alcohol in circulation amongst participating countries, however, across the UK there seems to be little regulatory priority allocated to counterfeit alcohol. The Food Standards Agency does note counterfeit alcohol in the Food Crime Unit's Strategic Assessment of 2016, however, there are no reported cases on the FSA website and some simple advice on how to spot fake alcohol. HMRC's response to this research also suggests that there is little priority given to counterfeit alcohol and so there is no regulatory strategy other than *caveat emptor*. We are of the view that this lack of regulatory strategy creates a 'blind spot', or a

place where activity takes place and is unseen by the regulator as they do not change their focus of attention significantly enough to bring the blind spot into their view.

*Recommendation 2: The increase of the commitment of regulators to developing an investigative strategy will be enhanced by an increase of investigative resources, clear lines of authority in any investigation, a multi-agency approach and a sharing of investigative costs. This would encourage the development of a coherent and strategically joined up approach to the policing of illicit alcohol markets.*

The data from the respondents to this research suggest that the motivator in purchasing counterfeit alcohol is financial. However, it is worth noting that there is also an element of risk management by some consumers who purchase counterfeit alcohol knowingly and that they buy from a trusted source. The market appears to be managed via word of mouth and the establishment of trust between consumer and seller. The consumer only introduces verified and trustworthy other consumers, thus protecting the market and the seller provides alcohol cheaply and not obviously harmful. This appears to be a relatively clandestine market, not open to public scrutiny and located in that place where there is an absence of regulatory oversight. The priority of obtaining cheap alcohol by consumers suggests that they do not differentiate between counterfeit and smuggled alcohol. There is no evidence in this research to suggest that the market in counterfeit and smuggled alcohol are organised by the same people, it is our view that we might anticipate some overlap in order to maintain supply.

*Recommendation 3: There appears to be little understanding of the market in smuggled alcohol and it would be beneficial to gain a greater understanding of this market, and its relationship to the markets in counterfeit alcohol via further research.*

Minimum Unit Pricing (MUP) is viewed as a possible means of reducing alcohol consumption. In the areas where counterfeit and smuggled alcohol are available the impact of MUP is thought to be minimal. There may be the unintended consequence of making counterfeit and smuggled markets more lucrative and so they could expand. It is known that smuggling is motivated by price differentials (usually duty differences between jurisdictions). Brexit may also cause border issues and smuggled alcohol may be a problem of small proportion compared to other duty and regulatory issues. It is possible that MUP and Brexit could combine to expand counterfeit markets.

*Recommendation 4: There is an importance in regulatory bodies having a clear strategic vision in relation to counterfeit alcohol in the immediate future that is designed to limit market expansion.*

The case study reveals that there is an additional market to pubs and clubs for counterfeit alcohol. The consumer is unaware of the lack of authenticity of the alcohol purchased. Landlords it seems are encouraged to purchase counterfeit alcohol with 'no questions asked' to maximise their profits in a competitive industry. The case study data suggests that the origin of the pub trade counterfeit alcohol is the same as the localised individual consumption market. One interpretation of the case study data is that the markets in counterfeit product are well entrenched and that there is a continuity of supply. If this is the case, then the counterfeit alcohol market is lucrative and unimpeded and so of little risk to those involved in its organisation. There is, however, an important caveat to this conclusion. Due to the partiality of the data it is not possible to size the market, it is therefore, easy to both over-estimate and under-estimate its actual size. Caution must be used when attempting to size the counterfeit alcohol market.

*Recommendation 5: Ensure that the sizing of the counterfeit alcohol market is not estimated in such a manner that it inflates the size of the problem.*

Alcohol is vulnerable to a number of different types of criminal activity. For example, it can be counterfeited, where the alcohol is not authentic and has been placed in the market as branded product. It can be smuggled, it is sourced in a different jurisdiction and the duty is evaded thus making it a cheaper product and it can be used as a deception. This is where the product is what it says it is, wine, but of a lower quality than stated on the bottle. These are not new crimes, alcohol has been subjected to such crimes over the centuries and so its vulnerability is recognised. However, there appears to be a lack of resources and priority given to protecting the consumer from counterfeit or fake booze. There appears to be a lack of proactive action by regulators and alcohol companies do what is necessary to protect their brands. There have been few serious cases reported as a result of the consumption of counterfeit alcohol, notwithstanding the fatalities at clandestine distilleries. There appears to be little or no pressure on regulators to monitor potential counterfeit alcohol markets or to strategically address the issue of fake booze.

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