

GETTING IT RIGHT IN THE FIGHT AGAINST FAKES

SPEECH BY:

**NEIL WITHINGTON, DIRECTOR, LEGAL &
SECURITY AND GENERAL COUNSEL
BRITISH AMERICAN TOBACCO**

Ladies & Gentlemen

It is my pleasure to be here this morning to represent
BAT and the Global Business Leaders Alliance Against
Counterfeiting, the group with perhaps the most
complicated acronym...GBLAAC. BAT was a founding
member of GBLAAC, a group that now includes 15
major multi-national companies representing more than
10 different industry sectors with a common concern
about the enormous problem of product counterfeiting.
All of these companies are, of course, concerned about
the impact of counterfeiting on sales, but they are equally
concerned about the impact on consumers.

GBLAAC is proud to be the Event Sponsor of this Second Global Congress, as it was for the First Global Congress in 2004. GBLAAC members, including BAT, believe strongly that the only solution to the global problem of product counterfeiting is strong and close cooperation and collaboration between government, industry and others. These Global Congresses are a prime example of how strong private-public partnerships can work, and we are delighted to be a key part of this process.

In an interview in 1939, Sir Winston Churchill quipped that his opponents' definition of success was the ability to swing from one failure to another with no loss of enthusiasm. I sometimes wonder whether this applies to our attempts to date to crack down on counterfeiting.

All of us, engaged in this international crusade against counterfeiting, would like to believe we are part of a "success". Whilst there has been progress in many

respects, particularly in raising awareness of the problem, the information from the market tells us the situation is only deteriorating.

Counterfeiting is increasing relentlessly year on year. Organised crime is diversifying and complementing their narcotics business with the so-called white collar crime, or, victimless crime, of counterfeiting because the risks are so much less and the rewards are almost as high. Each of us now must ask ourselves what more we should be doing to reverse the situation. What more can individual companies, industry associations and NGOs and, most importantly, governments do? How can we, building on our recent achievements, make more substantial progress in the face of a problem which is by all accounts more likely to get worse before it gets better?

As a result of good work by agencies such as WIPO, Interpol, INTA, the US Chamber of Commerce, OLAF, ISMA and the WCO, and industry forums like WEF, GBLAAC and ICC's BASCAP, counterfeiting has in just the last two years, leapt to the upper levels of the global

public policy agenda. It is a critical movement in the right direction

In fact, Ladies & Gentlemen, we need more than action. We need TRACTION. And to get that traction, all the wheels need to be gripping the counterfeiting terrain with equal vigour, joined up by a powerful transmission, fuelled by the octane of a responsibility we all share to protect not only companies and brands but the most important stakeholder – the consumer. None of us wants to live in a society where the public is routinely exposed to dangerous fake medicines, counterfeit brake pads made from compacted grass, fake cosmetics with acid levels that burn the eyelids, counterfeit tea bags containing the faeces of vermin, and illicit cigarettes that rob government exchequers of vital tax revenues. Counterfeiting rings need to be treated every bit as seriously as drug syndicates, organised criminals and counterfeiters of currency. Using the analogy of a tractor: there are six wheels that need to apply that traction on the axels of progress, and ultimately drive us forward to real success. They are the wheels of governments, brand owners, suppliers, shippers, media, and last but certainly not least, consumers.

Governments must issue laws with real teeth that render enforcement work more efficient and make it easier to pursue counterfeiters, and particularly the financiers behind them. It is still far too difficult to freeze and seize the assets of infringers – both for government enforcers as well as brand owners. Until we can get to these assets and hurt counterfeiters where it hurts them most – in their pockets – we will never deter others from getting into this game. Free-trade zones should also be subject to the same laws and standards of enforcement as the domestic market. Government enforcers, police and customs in almost all countries need better resources and support.

Brand owners now need to begin investing far greater resources to pursue counterfeiters; to exchange intelligence with governments, Customs and other brand owners; to incorporate anti-counterfeiting devices into packaging, even if that puts up the cost of goods; and not to turn a blind eye and dismiss counterfeiting as someone else's (meaning consumers' or competitors') problems.

For my company, counterfeiting is a major problem and we do put considerable resources into fighting the problem. Specifically, we believe strongly in public-private partnerships to fight the issue, to deal with the practical enforcement of our rights. In the audience today, we have key government representatives from countries ranging from Burkina Faso, Algeria, Vietnam, Yemen, Fiji, Cote d'Ivoire, Pakistan and Nigeria – we work together with them and have formed a constructive partnership with them to try to find a practical solution on the ground. We will continue to work with them and with organisations such as WCO, Interpol, WIPO, GBLAAC, INTA, ICC, OLAF, and others to deal with this scourge.

Suppliers must adopt the same standards of ethics and social responsibilities as their brand-owning customers. It must be established best practice for all suppliers to know exactly who their ultimate customers are, and it must be utterly unacceptable, and even legally actionable, for a supplier knowingly, negligently or without due diligence to sell a component to a counterfeiter or someone likely to pass it to a counterfeiter.

The law must not allow logistics companies and shippers to turn a blind eye to what they are transporting.

The fifth wheel for traction is the media. They have a responsibility to enable the public to realise that when they buy a fake handbag or counterfeit watch or impossibly cheap top brand cigarette that they are financing serious criminal combinations. Media should also highlight that fake drugs are pushed in developing countries to treat widespread illnesses like malaria, tuberculosis and HIV/AIDS.

And consumer bodies have a key role to play, supporting responsible media initiatives, to educate the buying public so that it becomes un-cool and socially unacceptable to have counterfeits. With decent education programmes, this is achievable. It costs money, and no doubt governments and brand owners should combine resources to help them finance such initiatives. But it should happen.

So I maintain that there are these six critical wheels to the traction needed to progress towards a successful strategy to reverse the trend of counterfeit goods. Counterfeiting

harms the economies of hard-working developing and also developed nations. They have a really adverse effect on government revenue. Just in my own industry, tobacco, let me tell you that for every €1.00 my company makes in net profit, we have generated and paid over €12.00 in taxes, and therefore for every counterfeit cigarette, on none of which are the taxes due on them ever paid, economies are harmed far more than are we. Of course, the financiers behind the counterfeits pocket much of that illicit margin.

So, Ladies & Gentlemen, I would remind you of Ernest Hemingway's wise words that action is not the same thing as movement, but I would also add that we need more than action. We need that TRACTION – the six wheels of joined-up action.

We need the strong hand of leadership to turn action into traction. We think that leadership should be provided by Governments, if necessary through the agency of a special multinational organisation dedicated to this purpose.

Despite Churchill's irony on Success, the way to measure whether we are getting on top of the curse of counterfeiting

is to assess the actual creation of value to the individual wheels of traction. And, ultimately, whether that traction is genuinely resulting in a significant decrease in the incidence of counterfeiting, sector by sector.

In typical form, Einstein hit the nail on its head when he advised: “Be driven not by success, be driven by value”.

Thank you.