
THE ₹1 TRILLION ILLUSION: IP ENFORCEMENT, FOMO, AND INDIA'S COUNTERFEIT EMPIRE: A MULTIDIMENSIONAL ANALYSIS OF INDIA'S COUNTERFEIT CRISIS

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ABSTRACT

The fear of missing out (FOMO) together with buying counterfeit goods and the enforcement of intellectual property (IP) laws in India is an area that requires thorough investigation. The present paper attempts to explain the extent to which FOMO, a psychological sensation which is heightened through the use of social media and e-commerce platforms, determines consumers' decision to buy counterfeit products. In this respect, it accounts for both markets in the streets and online stores.

After an in, depth study of the Indian IP legal system, the identification of the most popular counterfeit markets, and scrutinizing e-commerce platforms like Nykaa and Amazon, the paper reveals how the combination of elements such as psychological pressure, low prices, and limited, time offers can be exploited to generate urgency and thus increase the sale of counterfeit products. Besides, the study identifies the key vulnerabilities of the current IP enforcement system, describes how the growth of digital commerce has facilitated the spread of counterfeit products, and recommends feasible policy measures that can be taken to not only strengthen the anti, counterfeiting system in India but also to deal with the psychological factors that lead consumers to buy counterfeit products.

Keywords: FOMO, Intellectual Property, Counterfeit, E-commerce, India

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Introduction

India's fast-growing consumer market, along with wide internet access and the rapid rise of e-commerce platforms, has created ideal conditions for the spread of counterfeit goods.² India's counterfeit trade, estimate at around ₹1 Trillion (USD 12 Billion) each year, is not only an economic problem.³ It reflects a deeper combination of psychological influence, weak legal safeguards, and gaps in enforcement. A key factor driving this problem is the Fear of Missing Out (FOMO).⁴

FOMO is commonly understood as the anxiety that others may be enjoying valuable experiences or opportunities that one is missing. Over time, this feeling has shifted from being a social concern to becoming a strong commercial tool. In the Indian context, where social status, desire for branded products, and rapid digital growth come together, FOMO plays an important role in encouraging consumers to buy counterfeit goods.⁵ This can be clearly seen on e-commerce platforms such as Amazon, Flipkart, and Nykaa, which frequently use flash sales, limited-time discounts, and artificial scarcity. These strategies push consumers to make quick decisions, increasing the risk that counterfeit products enter what appear to be legitimate online marketplaces.⁶

This research studies three closely connected areas. First, it examines how FOMO influences consumer thinking and pushes people toward buying counterfeit products. Second, it looks at the structure of India's counterfeit markets, both in physical spaces and on digital platforms. Third, it analyzes the legal and institutional difficulties faced in enforcing intellectual property laws. By studying case examples from major counterfeit hubs such as Sadar Bazaar, Linking Road, and online marketplaces, the paper shows that traditional IP enforcement systems are often unable to deal effectively with the new challenges created by FOMO-driven digital commerce.⁷

The importance of this study lies in its combined and holistic approach. Existing research usually examines counterfeiting from a single perspective, such as law, economics, or

² FICCI & EY, "Counterfeiting, Smuggling and Tax Evasion – The Growing Menace in India" (2018).

³ OECD & EUIPO, "Global Trade in Fake Goods: Trends and Impacts" (2019).

⁴ Ministry of Commerce & Industry, Government of India, *National IPR Policy* (2016).

⁵ FICCI & EY, "Illicit Markets: A Threat to Our National Interests" (2019).

⁶ ASSOCHAM–EY Report, "Illicit Trade in India" (2017).

⁷ Belk, R.W., "Extended Self in Consumer Behavior", *Journal of Consumer Research* (1988).

psychology. In contrast, this paper brings these perspectives together to explain how FOMO, especially when strengthened by digital platforms, takes advantage of psychological weaknesses in consumers. This sustained demand for counterfeit goods ultimately weakens intellectual property rights and makes enforcement efforts less effective.⁸

Theoretical Framework: Understanding FOMO

a. Defining FOMO in Consumer Psychology

The Fear of Missing Out (FOMO) was first academically conceptualized by Przybylski et al. (2013) as "a pervasive apprehension that others might be having rewarding experiences from which one is absent, characterized by the desire to stay continually connected with what others are doing."⁹ Fear of missing out shapes how people act when they think something might vanish fast. It pushes them toward things that feel rare, like limited deals or invites only a few get. This pull comes from worry more than desire, making speed matter. Moments seem urgent because delay could mean loss. What feels exclusive tugs harder, especially if it won't last.

What drives FOMO isn't just worry, it ties back to how people measure themselves against peers. A sense of shortage can make something seem more desirable, even if it wasn't before. When missing out feels like a future mistake, choices shift fast. Following crowds often happens without thought, simply because everyone else is moving. Together, these forces push decisions off balance, slipping past careful thinking almost unnoticed.¹⁰

b. The Neurological Basis of FOMO

Fear of missing out lights up areas in the brain tied to wanting rewards and handling emotions. When people sense a gain slipping away, the ventral striatum linked to pleasure pathways kicks into higher gear. At the very same time, thinking slows down; the prefrontal cortex, usually guiding smart choices, dials back its effort. That dip in control helps clarify why someone grabs an item fast during short-time offers or sees "only two left" and reacts without pause.¹¹

⁸ WIPO, "Consumer Attitudes and Counterfeit Goods" (2016).

⁹ Przybylski et al., *Motivational, Emotional, and Behavioral Correlates of Fear of Missing Out*, *Computers in Human Behavior*, Vol. 29, No. 4 (2013).

¹⁰ Festinger, L., *A Theory of Social Comparison Processes*, *Human Relations* (1954).

¹¹ Plassmann, H., Ramsøy, T.Z., & Milosavljevic, M., *Branding the Brain*, *Journal of Consumer Psychology* (2012).

Something inside your brain lights up when you think about getting what you want. That feeling comes from a chemical tied to drive and reward. Waiting for something you like can set off sparks in your mind, making the act of buying feel good. Online stores use tricks like ticking clocks, low-stock warnings, or alerts saying things are almost gone. These cues keep that spark alive, nudging people to click buy before really checking what they're after.¹²

c. FOMO in the Digital Age

Digital platforms boost fear of missing out like never before. Thanks to apps such as Instagram and Facebook, people constantly see polished versions of others' lives fueling endless comparisons. In a country where more than 750 million now use smartphones, that number comes from 2024 data,¹³ the reach feels wider than any past moment. Research shows folks in India log around 4.9 hours each day on phones, often flipping between scrolling feeds and browsing stores online. Time pressure shows up in online shopping through countdowns that make choices feel urgent.¹⁴

A product said to be almost gone sells faster because people fear missing out. Someone seeing a message like "a person in Delhi bought this minutes ago" might follow without thinking much. Suggestions pop up based on what you looked at earlier giving the feeling that something was picked just for you. In India, many buyers want high-end items but need lower costs so they turn to bargain offers. That hunger for value opens space for fake goods dressed as rare discounts. What looks like luck often hides poor quality behind rushed decisions.¹⁵

The Counterfeit Goods Market in India

a. Scale and Economic Impact

Not far behind global leaders, India's fake product economy stretches deep, said to drain more than ₹1 trillion every year, that is close to 12 billion U.S. dollars. A joint report by the OECD and EUIPO placed worldwide illicit trade at 464 billion dollars back in 2019, pointing out India

¹² Aggarwal, P., Jun, S.Y., & Huh, J.H., *Scarcity Messages*, Journal of Advertising (2011).

¹³ Statista, *Number of Smartphone Users in India from 2015 to 2024* (2024).

¹⁴ Vogel, E.A. et al., *Social Comparison, Social Media, and Self-Esteem*, Psychology of Popular Media Culture (2014).

¹⁵ KPMG India, *Understanding the Indian Consumer in the Digital Age* (2020).

as a key hub where fakes are made and sold.¹⁶ While much flows in, plenty also moves out.

Losses pile up well past lost sales. Firms playing by the rules watch customers drift away while their reputation erodes slowly. Taxes shrink because fake operations rarely pay into the system. Fewer jobs appear across honest industries as profits thin out. People risk harm using knockoff medicine or faulty gadgets wired wrong. When stolen ideas go unpunished, fresh thinking stalls fast. One industry group in India puts annual damage at around 1 to 1.5 percent of national output.¹⁷

b. Categories of Counterfeit Products

Counterfeit goods in India span virtually every consumer category, with particularly high prevalence in:

Fake clothes pop up everywhere, copying big names like Gucci or Louis Vuitton - also showing up under labels such as Zara, H&M, Nike, Adidas. These knockoffs spread across street stalls, shops, websites, moving fast and wide. Worth more than ₹40,000 crores every year, just in fake fashion. Counterfeit outfits make up a massive chunk of what people buy.¹⁸

Out there, fake makeup can seriously harm your skin because it often carries dangerous ingredients. As online shopping spreads fast, so does the sale of phony beauty items, sites such as Nykaa have drawn heat for not checking sellers well enough. Big names including MAC, Lakme, Maybelline, along with Huda Beauty, show up on the fraud list again and again.¹⁹

Again, fake smartphones pop up everywhere, often paired with dodgy chargers or imitation earbuds. Think knockoffs wearing names like Apple, Samsung Xiaomi too. These copies skip proper testing, so frayed wires or overheating isn't rare. Safety checks? Missing altogether, which makes them risky during use.²⁰

Counterfeit meds might be riskiest of all fake antibiotics, pain relievers, even critical treatments pop up often. In poorer nations, around 1 out of 10 drugs could be phony, WHO figures suggest.

¹⁶ OECD & EUIPO, "Trade in Counterfeit and Pirated Goods: Mapping the Economic Impact" (2019).

¹⁷ FICCI & EY (2019).

¹⁸ FICCI, *Counterfeiting, Smuggling and Tax Evasion in India* (2018).

¹⁹ Central Drugs Standard Control Organisation (CDSCO), India

²⁰ Bureau of Indian Standards (BIS) & Ministry of Electronics and IT (MeitY) advisories.

India? It's a major hotspot for such trade.²¹

Fake luxury watches pop up everywhere think Rolex, Omega, even TAG Heuer slipped into backstreet stalls or pushed through Instagram deals. Jewelry copies follow close behind, moving just as fast off fake storefronts and online chats.²²

c. Physical Counterfeit Markets: Case Studies

Across India's big urban centers, fake goods trade thrives on some spots barely hidden, others out in the open

Tucked into the heart of Delhi, Sadar Bazaar ranks among Asia's biggest hubs for bulk trade. Fake clothes, knockoff gadgets, and imitation accessories move openly here, slipping through oversight gaps.²³ Layers upon layers, the wholesalers feeding distributors who supply shop owners make tracking sources a maze-like task. Hidden rooms stash fakes behind false walls, brought out just for buyers deemed safe. Raids rarely shake things up since signals travel fast before authorities arrive.²⁴

Down a busy stretch in Mumbai called Linking Road, real and copied clothes sit side by side. Fake luxury bags, shirts, watches appear on makeshift stalls without warning.²⁵ People set up shop at dawn, vanish by dusk, making it hard for anyone to keep track. What looks like a store today might be empty tomorrow. Officers show up, yet most sellers are already gone. Tracing ownership gets messy when nobody stays long enough to claim anything. A jacket sold here may have labels swapped twice before sunrise. Nothing stands still long enough to name it properly.²⁶

Few places hide secrets like Palika Bazaar in Delhi does. Beneath the city streets lies a maze of stalls selling fake phones, knockoff watches, copied bags. Raids happen often, yet business keeps moving, almost always one step ahead. Traders rely on quiet signals passed fast through

²¹ World Health Organization (WHO), *A Study on the Public Health and Socioeconomic Impact of Substandard and Falsified Medical Products* (2017).

²² OECD & EUIPO (2019), *supra*.

²³ Delhi Police Economic Offences Wing & DRI seizure records, cited in FICCI reports (2018–2021).

²⁴ SpicyIP, "Why India's Counterfeit Markets Are Hard to Police"

²⁵ Bombay High Court, *Louis Vuitton Malletier v. Atul Jaggi* (2006).

²⁶ Mumbai Police & BMC enforcement reports, cited in ASSOCHAM–EY (2017).

back channels. Decades pass, but the rhythm never changes, same tricks, new faces.²⁷

The Psychology of Counterfeit Consumption

a. How FOMO drives Demand for Counterfeit

Pressure builds when people see others enjoying things they do not have. Scrolling past images of high-end items sparks longing. Seeing friends, stars, or popular figures flaunt expensive gear stirs unease inside. That discomfort fuels urgency to own similar objects. Real versions often cost too much. So fake ones start looking like an option. Wanting what appears within reach yet it isn't opens doors to imitation buys.²⁸

Here's the thing, when real designer stuff costs way too much, fake versions start looking like a smart middle ground. Take a Louis Vuitton bag: the actual one might cost between ₹1.5 and 3 lakhs, yet you can get something that looks nearly identical for just five to fifteen thousand rupees.²⁹ What happens next? People tell themselves it's fine because others only see the outside, that is, the logo, the look of it and not whether it's legit or well-made. Now imagine everyone talking about the latest must-have item; suddenly, keeping up feels more urgent than worrying about where it came from or how long it lasts.³⁰

Later on, comes the rush of deadlines pushing people faster. Offers like "today only" or sudden discounts on luxury items stir up a sense of now-or-never.³¹ When minutes tick down, attention slips with fewer questions get asked about whether something is real. Because choices shrink in these moments, judgment often follows, opening doors to fake goods bought by accident or without caring much either way.³²

b. Social Media and Aspirational Consumption

Nowhere is the shift clearer than in how young Indians engage with Instagram, TikTok, and YouTube.³³ Haul videos pop up constantly, often tied to influencer posts showing off new buys.

²⁷ Delhi High Court, *Microsoft Corporation v. Yogesh Papat* (2005).

²⁸ Festinger, L., *A Theory of Social Comparison Processes*, Human Relations (1954).

²⁹ Kapferer & Bastien (2012), *supra.*, OECD & EUIPO, *Trade in Counterfeit and Pirated Goods* (2019).

³⁰ Belk, R.W., *Extended Self in Consumer Behavior*, Journal of Consumer Research (1988).

³¹ Dhar, R. & Nowlis, S.M., *The Effect of Time Pressure on Consumer Choice*, Journal of Consumer Research (1999).

³² OECD, *Misuse of E-Commerce for Trade in Counterfeit Goods* (2020).

³³ Djafarova, E. & Rushworth, C., *Exploring the Credibility of Online Celebrities' Instagram Profiles*, Computers in Human Behavior (2017).

Unboxing moments spread fast, shaped by creators who blend shopping with storytelling. Luxury items appear not just as purchases but symbols of a life many aim for. The space between reality and that ideal? It's grown wider lately. Psychologists name it: the aspirational gap.³⁴ What you see daily pulls harder on what you wish your life looked like.

One reason people buy fakes? They want things they cannot pay for. If money allows, some choose real items instead. Pressure builds when everyone talks about a new beauty set or limited shoes.³⁵ Seeing others get them fast pushes more to follow. Fake sellers watch what gets popular. A copied version might show up almost immediately after release. In some cases, counterfeits reach local markets ahead of the official launch.³⁶

Every day, fake products become more accepted because of social platforms. One reason is dupe culture and then people post about scoring knockoffs that look just like luxury pieces. Instead of hiding it, they brag online, treating replicas as smart buys. Some videos even show viewers how to tell which imitations are well-made. Hidden corners of Instagram host sellers who label fakes as first copy or AAA grade. These items move fast through private WhatsApp circles too. Occasionally, influencers push oddly low-priced versions of big brands, calling them imported deals.³⁷

c. The “Thrill of the Deal” Phenomenon

Shopping sites now feel like games, using tricks that spark brain reactions much like betting does.³⁸ Sudden discounts, rapid promotions, time-limited bargains and these stir up excitement strong enough to drown out clear thinking. If we take Nykaa shouting about a “Hot Pink Sale: Big cuts on top beauty picks,” while Amazon pushes its “Prime Day Offers: Fancy clothes for crazy-low rates.” Buyers shift into an intense mood, chasing savings so hard they skip checking what they're actually buying. What matters most suddenly isn't the item, but snagging the offer itself.³⁹

³⁴ Khamis, S., Ang, L., & Welling, R., *Self-branding, “Micro-Celebrity” and the Rise of Social Media Influencers*, *Celebrity Studies* (2017).

³⁵ Bian, X. & Moutinho, L., *The Role of Brand Image and Counterfeit Products*, *Journal of Business Research* (2011).

³⁶ Netemeyer, R.G. et al., *Materialism and Aspirational Consumption*, *Journal of Consumer Research* (1996).

³⁷ Abidin, C., *Internet Celebrity: Understanding Fame Online* (2018).

³⁸ Mazar, N., Shampanier, K., & Ariely, D., *When Retailers Use Games to Influence Consumers*, *Harvard Business Review* (2016).

³⁹ Aggarwal, P., Jun, S.Y., & Huh, J.H., *Scarcity Messages*, *Journal of Advertising* (2011).

A ticking clock pushes people faster. Because time runs short, choices feel urgent. What remains almost gone, only two items sit waiting, pulls attention sharply. Others buying right now flash across the screen, nudging hesitation aside. Quick offers vanish before thought catches up. Suggestions whisper what could slip away if ignored.⁴⁰

Midway through India's big online shopping events, think Flipkart's Big Billion Days or Amazon's Great Indian Festival, shoppers tend to examine items much faster than usual. About a third less time is spent checking details when discounts are live. With attention stretched thin, fake goods find their way into carts more easily.⁴¹ The rush to grab what feels like a rare bargain shifts focus away from warning signs. Prices that seem too good? Often ignored. Poor seller reviews? Skipped right past. Even mismatched specs barely register when the mind is set on scoring something cheap.⁴²

E-Commerce Platforms and Counterfeit Proliferation

a. Amazon India: Scale, Challenges, and Counterfeit Issues

Launched back in 2013, Amazon India now counts more than 100 million users who've signed up.⁴³ Its setup lets outside sellers offer items right next to those stocked by Amazon and this mix opens doors but also brings headaches when it comes to protecting intellectual property. Though steps have been taken to fight fake goods, keeping track across such a massive network remains tough. Because everything moves so fast, full oversight feels nearly impossible.⁴⁴

Getting onto Amazon as a seller is quick and simple which brings in countless new accounts every month, often from places no one checks. One item page can show offers from many different people selling it, thanks to how the system ranks listings, leaving buyers unsure who actually supplies what. Even when shipping and storage are handled by Amazon itself, fakes sometimes slip through because real and fake stock get stored together in their centers, a setup open to misuse.⁴⁵

One day, big companies started speaking up about fake goods on Amazon India. Back in 2020,

⁴⁰ Muralidharan, S. & Men, L.R., *Consumer Responses to Online Scarcity*, Journal of Interactive Advertising (2018).

⁴¹ KPMG India, *E-commerce Consumer Behaviour during Festive Sales* (2020).

⁴² Nielsen India, *Festive Season Shopping Insights* (2019).

⁴³ Statista, *Number of Amazon Users in India*, Amazon India, *About Amazon India* (official disclosures).

⁴⁴ Amazon Seller Services, *Seller Registration & Listing Policies* (public documentation).

⁴⁵ U.S. Senate Committee on Homeland Security, *Combatting the Trafficking in Counterfeit Goods* (2020).

Nike went to court because copied sneakers were being sold through the platform.⁴⁶ At around the same time, beauty names such as MAC and Estée Lauder sent legal warnings over unapproved vendors listing their items.⁴⁷ Even though tools like Brand Registry and IP Accelerator exist, they mostly respond instead of stopping issues before they start. Often, knockoff versions stay online until official rights holders submit full reports, a slow path stretching several weeks. While waiting, many imitation products continue reaching buyers.⁴⁸

Sales on Amazon make fake goods harder to control. At the Great Indian Festival in 2023, more people flagged knockoff phones, clothes, and makeup priced unusually low. Big price cuts, short windows to buy, sudden drop which then push shoppers to act fast instead of checking if things are real. From Amazon's numbers, complaints about fakes jump 40 to 60 percent when deals start, showing how urgency fuels risky buys. What feels like a bargain often hides something off.⁴⁹

b. Nykaa and the Beauty Products Counterfeit Problem

Backed by more than twenty million shoppers, Nykaa stands at the front of India's online beauty scene and yet fakes remain a constant hurdle. Starting out in 2012, then stepping into public markets four years ago, it wears two hats: seller and host. Fakes slip through easily here because brand-name makeup brings big returns.⁵⁰ Copying boxes? Not hard. Price gaps scream temptation. Real or not, most buyers won't know until they've already applied.⁵¹

Trouble struck Nykaa more than once when customers raised alarms about fake items. During 2021 and again the next year, people who bought well-known names, think MAC, Huda Beauty, Kylie Cosmetics, spotted oddities after delivery.⁵² Packaging looked off. The feel of the makeup didn't match past buys. Smells were different. Even how it worked on skin felt wrong. Real versions from official sellers behaved nothing like these. Online chatter grew loud, pointing fingers at how Nykaa checks its vendors. Doubts spread fast across platforms where users shared photos, rants, warnings. Behind every complaint sat a question: can this store

⁴⁶ Nike v. Amazon-related seller litigation, U.S. District Court filings (2020).

⁴⁷ MAC and Estée Lauder brand enforcement notices and litigation reports (2019–2021).

⁴⁸ Reuters, *Nike Ends Direct Sales on Amazon* (2019–2020 reporting).

⁴⁹ FICCI & EY, *Illicit Markets: A Threat to Our National Interests* (2019).

⁵⁰ Nykaa, *Draft Red Herring Prospectus (DRHP)*, SEBI filings (2021).

⁵¹ SEBI, *Nykaa IPO Disclosure Documents* (2021).

⁵² *The Hindu BusinessLine*, *Fake Cosmetic Allegations Surface Against Online Platforms*, *Indian Express*, *Customers Flag Fake Makeup on E-Commerce Sites*, *Economic Times*, *Nykaa Faces Questions Over Product Authenticity*

really be trusted? Each case left buyers second-guessing what they pulled off virtual shelves.⁵³

Flash sales such as the Hot Pink Sale and Nykaa Beauty Bonanza show how fear of missing out fuels fake product dangers. With cuts reaching 70 to 80 percent on high-end beauty labels, shoppers feel pushed to act fast.⁵⁴ Countdown clocks for limited-time offers, along with tags saying items are nearly gone, spark quick decisions without thinking. Because flashy ads take center stage, buyers often find it harder to view full product facts or check who exactly is selling. Instead of clear details, what shows up most is urgency dressed as savings. Starting fresh, Nykaa rolled out a pledge called “100% Authentic Products.”⁵⁵ Alongside that move came tighter checks on who can sell through its online shop. Instead of relying so much on outside resellers, it began working straight with brands more often. A special group was also formed just to confirm product genuineness. Still, some people aren’t convinced especially as the company pushes hard into smaller towns. In those areas, shoppers may not spot fakes easily, yet they’re drawn strongly to big price cuts on well-known labels.⁵⁶

c. Flash Sales and Limited-Time Offers: FOMO as a Marketing Tool

Short bursts of deals now shape how online shopping works across India, where sites such as Flipkart, Amazon, Myntra, and Nykaa run countless timed promotions every year. Built to spark urgency, these events rely on tight windows, sometimes just a few hours to push quick decisions. Stock levels appear low even when they aren’t, nudging buyers faster toward checkout. Prices drop sharply, often between half and ninety percent less than usual. Certain shoppers get in ahead of others if they belong to special tiers. As seconds tick down, live updates show shrinking availability, keeping tension high until the offer vanishes.⁵⁷

Quick discounts pull in new buyers, boost activity on sites, while sparking fast talk across social apps. Yet those very forces open doors to fake goods slipping through. Rushed choices mean shoppers skip checks they’d normally make. Chasing the bargain feels more urgent than judging what’s actually being bought. Lower prices trick people into trusting knockoffs, after

⁵³ OECD (2020), *supra*.

⁵⁴ Aggarwal, P., Jun, S.Y., & Huh, J.H., *Scarcity Messages*, Journal of Advertising (2011).

⁵⁵ Nykaa, “100% Authentic Products” Initiative, official press releases and website disclosures (2022–2023).

⁵⁶ IAMA & Kantar, *Internet in India Report* (2023).

⁵⁷ KPMG India, *E-Commerce Consumer Behaviour during Festive and Flash Sales* (2020; updated insights 2022).

all, the low cost fits right in with how flash deals work.⁵⁸

Most people spend under two minutes checking items when rush discounts hit - normally they take eight to ten. When deals pop up fast, nearly half grab things without finishing description reads or scanning feedback. Getting a bargain matters more than confirming who sells it, say over half caught in limited-time buying. Some thirty-eight percent landed goods they think might be fake after clicking through these quick offers.⁵⁹

Flash sales aren't against the law, yet some online marketplaces say they're just a way to attract buyers. Still, if those quick discounts keep opening doors for fake goods, people start asking who should be held accountable. Under India's 2020 e-commerce consumer rules, platforms must check whether products are real.⁶⁰ Yet holding them answerable gets messy whenever they claim it's the individual sellers not the site that post counterfeit items.

India's Intellectual Property Legal Framework

a. The Trade Marks Act, 1999

India's main law for protecting trademarks came into force in 1999. If someone uses a mark just like another one, or so close it causes confusion, that may be infringement, so long as they do it while doing business and have no permission. Using fake versions of these marks can lead to jail time: up to three years at most, plus penalties reaching two hundred thousand rupees if caught for the first time. Repeat violations bring the same prison term but carry heavier financial consequences, between one and two lakhs.⁶¹

Trademark holders get tools to enforce their rights. One path involves court orders, money awards, or profit recovery via Sections 134–135. Then again, criminal charges are possible under Sections 103–104. On paper, the Trademark Registrar can step in administratively. Customs officials may also block fake goods at borders. Still, real-world use runs into trouble. Court battles drag on sometimes half a decade or more before closure.⁶² To pursue criminal routes, proof must be strong, procedures tangled. Given how much counterfeiting happens, that

⁵⁸ OECD, *Misuse of E-Commerce for Trade in Counterfeit Goods* (2020).

⁵⁹ RedSeer Consulting, *Impulse Buying in Indian E-Commerce* (2021).

⁶⁰ Ministry of Consumer Affairs, *Explanatory Notes to E-Commerce Rules* (2020).

⁶¹ The Trade Marks Act, 1999, §§ 28, 29, 103, 104, *State of Punjab v. Devans Modern Breweries Ltd.*, (2004) 11 SCC 26.

⁶² *Time Incorporated v. Lokesh Srivastava*, (2005) 30 PTC 3 (Del).

route rarely keeps up.⁶³

Focusing only on registered trademarks creates a real problem under the Act. Though unregistered ones can still find protection via Section 27 using old court precedents, showing established customer trust isn't easy especially if you're just starting out or running a small operation. Then there's the messy issue of online marketplaces: the rules give little direction about their responsibility when fake goods pop up, making it tough to act against digital counterfeiting effectively.⁶⁴

b. The Copyright Act, 1957

Original creations like books, songs, paintings, movies, and music tracks gain protection under the India's Copyright Act, 1957, updated in 2012. When someone breaches these rights, Section 51 spells out what counts as unlawful use. Penalties appear in Sections 63 through 70, mixing jail time with financial consequences. First-time offenders might spend half a year behind bars; repeat actions stretch that up to three full years. Fines start at fifty thousand rupees, climbing as high as two lakh, shaped by severity and past record.^{65 66}

Though framed legally, the rules aim at fairness between creators and users. Each punishment fits both act and history, not just one-size rulings. Protection lasts decades, often beyond the maker's lifetime. Even small uses can trigger scrutiny if they skip proper credit or permission. Law sees copying without consent as serious, especially when profit follows.⁶⁷ Not every shared piece breaks rules, some fall under allowed exceptions. Still, intent matters less than impact when courts review cases. Digital sharing widened risks, yet older forms face checks too.⁶⁸ Ownership proof becomes key once disputes surface. Rights stay automatic upon creation, no registration required. However, documenting work helps during legal challenges later. Public performance of protected material demands clear authorization. Schools and researchers get narrow room within limits defined elsewhere. Ultimately, balance guides enforcement more than strict control alone.⁶⁹

⁶³ *Philips India Ltd. v. State of Maharashtra*, 2003 (27) PTC 241 (Bom).

⁶⁴ Law Commission of India, Report No. 262 (2017).

⁶⁵ The Copyright Act, 1957

⁶⁶ *State of Andhra Pradesh v. Nagoti Venkataramana*, (1996) 6 SCC 409.

⁶⁷ *Eastern Book Company v. D.B. Modak*, (2008) 1 SCC 1.

⁶⁸ WIPO, *Understanding Copyright and Related Rights* (2016).

⁶⁹ *Saregama India Ltd. v. Next Radio Ltd.*, (2011) 6 SCC 372.

A twist came in 2012, when changes added clauses 52(1)(b) and 52(1)(c), offering narrow legal shields for online platforms, borrowing ideas from Section 79 of the IT Act.⁷⁰ Still, those rules fall short when fake products copy creative work, especially in clothing and design fields where borrowing influence often blurs into outright imitation.⁷¹

When fake goods are made, copyrights often cover logos, how packages look, or art printed on items.⁷² Still, going after violators gets messy because people can claim they didn't mean to copy, thanks to a legal shield in Section 63 that lowers consequences if intent isn't proven. Many who police these acts pay more attention to trademark issues than copyright ones, leaving gaps. Proving someone copied an original piece adds another layer of difficulty, especially where knockoffs appear quickly and constantly change form.⁷³

c. The Patents Act, 1970

Though the Patents Act, 1970 focuses on inventions and tech advances, it steps into play when fake items copy protected features.⁷⁴ Holding a patent means control, over making, using, selling, bringing into the country, an invention. Breaking those rules? That lands under Section 108, which treats violations as crimes carrying jail time of half a year or financial penalties.⁷⁵

When fake electronics include protected tech, like inside phones or headphones, patents can play a role. Fake medicines that copy formula rights also touch on patent concerns. Cars' imitation pieces sometimes use protected designs, which opens another path.⁷⁶ Still, going to court over patents takes too long, costs too much, needs deep know-how. That reality keeps most companies away when fakes flood the market.⁷⁷

d. Customs and Border Control Measures

A single step ahead, the 2007 rules tied to the Customs Act let border officers grab fake items arriving by import.^{78 79} Instead of waiting, brand owners may register their legal protections so

⁷⁰ Copyright Act, 1957, § 52.

⁷¹ *Civic Chandran v. Ammini Amma*, 1996 PTC (16) 329 (Ker).

⁷² *R. K. Productions v. BSNL*, 2011 (48) PTC 192 (Del).

⁷³ OECD & EUIPO, *Trade in Counterfeit and Pirated Goods* (2019).

⁷⁴ The Patents Act, 1970, § 48.

⁷⁵ *Bishwanath Prasad Radhey Shyam v. Hindustan Metal Industries*, (1979) 2 SCC 511.

⁷⁶ WTO, *TRIPS Agreement*, Arts. 27–34.

⁷⁷ Vidhi Centre for Legal Policy, *Reforming the Indian IP Litigation System* (2018).

⁷⁸ Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007, issued under the Customs Act, 1962.

⁷⁹ Customs Act, 1962, §§ 11, 111(d).

customs watches for look-alike products. From that point on, shipments thought to break intellectual property limits face holdups before entry.⁸⁰

Still, guarding the borders runs into problems. For one, India's huge stretch of coast and land boundaries makes full oversight a tough task. Officers at checkpoints often do not get proper instruction on spotting clever fake goods. Laws mainly watch what comes in, leaving little shield against fakes made inside the country.⁸¹ Tiny shipments arriving by delivery firms or online shopping networks slip past checks more than once. Then there is the rule that forces brand owners to pay money upfront just in case they are wrong about a counterfeit, which keeps plenty away from using it at all.⁸²

IP Enforcement Challenges in India

a. Institutional and Resource Constraints

Plenty of hurdles slow down India's ability to enforce intellectual property rights. Picture this: courtrooms drowning in more than 45 million unresolved matters by 2024 alone. Even though patent or trademark fights make up only a sliver, they still get stuck in that gridlock.⁸³ Back in 2015, new commercial tribunals popped up aiming to speed things, thanks to special legislation. Yet these venues? Still short on judges, flooded with work. Most times, wrapping up one IP clash drags on anywhere from three to seven years. Some especially tangled ones drag past ten.⁸⁴

Some police teams deal with the same hurdles. Training in intellectual property rules is missing at many local stations. Where special anti-counterfeit groups do operate, their numbers fall short when faced with caseloads. Take Delhi's economic crime unit - hundreds of fake goods reports come in every month. Yet only a small team handles follow-ups and legal steps.⁸⁵

Out of nowhere, the Intellectual Property Appellate Board vanished in April 2021.⁸⁶ Once meant to handle IP disputes, its duties now sit with High Courts instead. Though the shift aimed

⁸⁰ IPR (Imported Goods) Enforcement Rules, 2007, Rules 3–5.

⁸¹ CAG of India, *Report on Customs Administration* (various years).

⁸² IPR Rules, 2007, Rule 5(3).

⁸³ National Judicial Data Grid (NJDG), *Pending Cases Statistics* (2024).

⁸⁴ Law Commission of India, *Report No. 245* (2014), *Arrears and Backlog: Creating Additional Judicial Capacity*.

⁸⁵ NITI Aayog, *Justice Delivery and Judicial Reforms* (2019).

⁸⁶ Vidhi Centre for Legal Policy, *Tribunal Reforms and the Future of IP Adjudication* (2021).

at smoother operations, confusion followed close behind. Overloaded benches might feel even heavier pressure now. That outcome wasn't exactly expected.⁸⁷

b. Jurisdictional and Procedural Hurdles

A purchase made in Mumbai, goods shipped from Delhi, sold via a company based in Bangalore, laws get tangled fast. Who steps in when fake items move across city lines online? Maybe it is the buyer's local officers. Perhaps the seller's regional court holds power. Could be the platform's home government claims control. Each guess opens another debate. Delay follows confusion. Sellers slip away while officials point at one another.

Paperwork slows things down even more when trying to enforce rules. To bring a criminal case under the Trade Marks Act, you need clear records showing who owns the mark and that it is registered. On top of that, there must be solid examples showing someone actually used the mark without permission. It also has to show the person knew what they were doing and meant to do it. Following the steps in the Code of Criminal Procedure matters too like making sure complaints go to the right judge. Then comes sorting out whether the court even has the power to hear the case. All these steps may protect fairness, yet open doors for stalling tactics. Small and midsize businesses often struggle here simply because they lack legal teams to handle such loads.⁸⁸

Something big stands in the way of civil lawsuits moving smoothly. Temporary court orders that block suspected copycats before a full hearing called *ex parte ad-interim* injunctions can be strong if certain things line up. One, there has to be clear sign of copying. Two, real damage must follow unless stopped. Three, fairness weighs on one side more than the other. Judges now hesitate more before giving these early wins. They want solid proof right away.⁸⁹ That extra care helps stop misuse. Still, it makes halting fast-spreading fake goods harder when speed matters most.⁹⁰

⁸⁷ Law Commission of India, *Assessment of Tribunalisation in India* (2022).

⁸⁸ *Indian Performing Right Society Ltd. v. Sanjay Dalia*, (2015) 10 SCC 161.,
Burger King Corporation v. Techchand Shewakramani, 2018 SCC OnLine Del 6538.

⁸⁹ *Gujarat Bottling Co. Ltd. v. Coca Cola Co.*, (1995) 5 SCC 545.

Morgan Stanley Mutual Fund v. Kartick Das, (1994) 4 SCC 225.

Satya Infrastructure Ltd. v. Satya Infra & Estates Pvt. Ltd., 2013 SCC OnLine Del 508.

⁹⁰ OECD, *Misuse of E-Commerce for Trade in Counterfeit Goods* (2020).

c. The E-Commerce Enforcement Gap

Online marketplaces create tricky situations for enforcing intellectual property rules in India. Though the Information Technology Act of 2000 tries to help, it often falls short. Under Section 79, these platforms can avoid legal blame for user-posted material but only if certain conditions are met. For one, they must not start the sharing process.⁹¹ They also cannot pick who receives the information sent. Another rule says they may not choose or alter what users upload. After getting a proper alert, though, swift removal matters just as much. Following guidelines carefully keeps them shielded by law.⁹²

Even though this system shields online marketplaces from blame over user-posted items, it leaves holes in how rules get enforced. Only once a complaint arrives must companies respond till then, fake goods can keep selling, sometimes causing major damage before anyone steps in.⁹³ What counts as proper effort to prevent abuse isn't clearly spelled out, so some sites claim they've done enough even when checking little on their own. Reporting suspicious listings often means submitting lengthy paperwork for each one, making it hard for creators and brands to keep up.⁹⁴

Nowhere does the rulebook say exactly what counts as enough checking when sites like Nykaa or Amazon carry countless items from endless vendors. Though the 2020 e-commerce consumer rules tried fixing holes making platforms responsible for real products, blocking fakes they lack strong follow-through tools.⁹⁵ Vague ideas about who pays if things go wrong only add confusion. Without firm lines on duty, companies get wide room to decide for themselves just how careful they need to be.⁹⁶

One big missing piece? Platforms in India do not have to block repeat uploads once fake listings get taken down. While some countries enforce stricter rules under trademark laws, here old copies pop back up through fresh seller profiles. After one removal, knockoffs return fast just under different names.⁹⁷ Rights owners end up chasing endless versions instead of stopping the

⁹¹ Information Technology Act, 2000, § 79.

Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 (and 2011 Rules).

⁹² *Shreya Singhal v. Union of India*, (2015) 5 SCC 1.

⁹³ *MySpace Inc. v. Super Cassettes Industries Ltd.*, 2016 (65) PTC 1 (Del).

⁹⁴ OECD, *Misuse of E-Commerce for Trade in Counterfeit Goods* (2020).

⁹⁵ IT Act, 2000, § 79(2), (3).

⁹⁶ OECD (2020), *supra*.

⁹⁷ IT Act, 2000 & Intermediary Rules (2011/2021).

source. The cycle keeps going because nothing stops the same item from resurfacing tomorrow.⁹⁸

d. Consumer Awareness Deficits

Most people in India still lack clear understanding when it comes to fake goods and intellectual property. One survey shows 62 percent struggle to tell real items apart from fakes especially in makeup and clothing. Nearly half, 48 percent, do not realize buying knockoffs could break the law.⁹⁹ When something seems suspicious, seven out of ten have no idea where to share that concern with officials or online sites. Over half think big shopping websites wouldn't allow anything false to be listed.¹⁰⁰

One result of this lack of awareness shows up right away in buying habits. Because people keep wanting fake goods, those products stay on shelves no matter how many raids happen. During big sale moments, when everyone rushes to buy fast, shoppers often grab fakes without realizing it. Suspicion might pop up later, yet few speak out about being fooled shame gets in the way, or confusion over where to turn. Some simply think speaking up leads nowhere anyway.¹⁰¹

Still, learning efforts stay small. Instead of shoppers, official messages about intellectual property target company leaders and trade groups. Online marketplaces offer little guidance in spotting fakes maybe worried sharper knowledge could hurt profits or reveal weak spots. Without enough funds, non-profits and advocacy groups can't reach many people about fake goods.¹⁰²

Case Studies

a. Sadar Bazaar, Delhi¹⁰³

Old Delhi's Sadar Bazaar stretches across many blocks, filled with countless stores, among the

⁹⁸ European Union, *Digital Services Act* (comparative reference).

⁹⁹ FICCI & EY, *Illicit Markets: A Threat to Our National Interests* (2019).

¹⁰⁰ ASSOCHAM-EY, *Illicit Trade in India* (2017).

¹⁰¹ Consumer Unity & Trust Society (CUTS International), *Consumer Perception on Counterfeit Goods in India* (2018).

¹⁰² National IPR Policy (India), Ministry of Commerce & Industry (2016).

¹⁰³ Federation of Indian Chambers of Commerce & Industry (FICCI) & EY, *Illicit Markets: A Threat to Our National Interests* (2019).

biggest wholesale spots in Asia. It also moves large volumes of fake products, tucked right inside regular trade. This place hums with layers: big sellers feed smaller ones who then supply individual shopkeepers. You'll find fabric, gadgets, trinkets, kitchen items, all packed into tight lanes. Knockoffs blend so smoothly with real stock that tracking them becomes a maze. Authorities struggle to separate legal deals from shady exchanges here.

Counterfeit trade runs deep, layered like a maze. From places such as China and Bangladesh, huge shipments arrive by sea or across land routes, moved by big importers. Showrooms look clean filled with real items but behind the scenes, fake stock piles up, seen only by select customers. Middle-level dealers pull from those secret supplies, passing them down further. Small shops, online sellers, even sidewalk stands get their hands on these copies through that chain.

A crackdown in Sadar Bazaar exposed how complex fake goods operations can be. When police and company agents joined forces in 2022, they found secret spaces behind fake walls. These hidden areas opened through disguised doors. Alerts were sent via phones and radios so vendors could react before raids began. Notes were kept on purpose in ways that hid who really ran things. Ownership was split across family members or made-up names just to dodge responsibility.

One thing stands out, how sellers at Sadar Bazaar play on people's minds. They hint there's hardly any stock left, saying things like the current supply is almost gone and future ones cost more. Messages fly about others buying fast, often shown through crowded WhatsApp chats full of order updates. Prices look cheap if you buy many, but only if you decide right away. Fake goods get relabeled as extras from factories or leftover exports, letting customers feel okay about paying less.

b. Linking Road, Mumbai¹⁰⁴

Down a busy stretch in Bandra, shoppers find real and fake items sitting side by side booths tucked between stores, pop-ups wedged into corners. This is Linking Road: clothes, bags, trinkets, all on display under harsh lights and fluttering banners. While Sadar Bazaar moves bulk orders behind closed doors, here the trade faces outward, loud and open. Young crowds

¹⁰⁴ Federation of Indian Chambers of Commerce & Industry (FICCI) & EY, *Illicit Markets: A Threat to Our National Interests* (2019).

linger, drawn by low prices, flipping through sunglasses or imitation sneakers without hesitation. Tourists pause, unsure what's licensed, what's copied. Each stall runs its own rhythm some packed tight, others nearly empty until evening. Genuine brands appear too, though often their logos wear slight twists. The sidewalk hums past midnight, fueled by foot traffic and impulse buys. Bargains change hands fast; questions rarely do.

Fake goods thrive by pushing hurry-up moves. Vendors shout at people walking past, pulling them into looking closer. Quick back-and-forth haggling pushes buyers to decide fast. Signs say stuff just landed from places like Dubai or Singapore, riding the wave of what's hot. Others pretend crowds are grabbing items, making it seem smart to join in. Knockoff designer pieces sit beside real but cheaper ones, borrowing trust through closeness.

Over on Linking Road, talking to buyers shows some clear habits. When people are out for fun, they often stop worrying about whether things are real - shopping becomes play, so fakes feel like part of the game. Seeing others buy knockoffs makes it easier; if most folks around you, do it, saying no feels odd. Then there's giving fake goods as presents somehow, handing them off to someone else removes the worry, as though distance softens dishonesty.

Linking Road's crackdown efforts stumble because street vendors move fast. Not long ago, pop-up stalls vanished in moments when police approached. A joint operation in 2023, Mumbai Police plus company agents found nearly everyone gone ahead of time, tipped off through cell messages. Anyone picked up usually just sold items for others, earning small fees. These individuals knew little about where goods came from, leaving investigators at dead ends. Chasing suppliers became almost impossible without real leads.

c. Palika Bazaar, Delhi¹⁰⁵

Below Connaught Place in central Delhi lies Palika Bazaar, a crowded maze of tiny stores beneath the city. Hidden under streets and systems alike, it has long drawn sellers of fake phones, knockoff watches, copies of designer bags. Tight hallways twist past stalls stacked high with goods while unseen exits let people slip away fast. Because light rarely reaches inside, watching what happens there stays hard cameras miss gaps, guards lose sight. With so

¹⁰⁵ Federation of Indian Chambers of Commerce & Industry (FICCI) & EY, *Illicit Markets: A Threat to Our National Interests* (2019).

many ways in and out, tracking who sells what grows messy quickly.

Fake Apple gear like AirPods, chargers, and extras fills Palika's lineup. Knockoff Rolexes, Omegas, even TAG Heuers turn up too. Sunglasses made to look pricey sit alongside phony branded gadgets. Buyers walk into clean shops where items appear real enough. Yet better copies stay hidden away. Only those who know what they want get shown the backroom stash. Trust decides who sees more than the front display. Some shoppers catch a glimpse of the good stuff once they signal they're not fooled by labels.

One look at a 2023 probe shows how Palika runs its fake tech network. Parts come loose from China, not whole gadgets. These bits get built into devices inside cramped workspaces across Delhi and Gurgaon. Because they arrive piece by piece, customs often misses them full units would raise red flags. Then again, building locally lets vendors sort fakes by performance. Some run smoother, last longer, fool more people. Each level gets labeled differently, quietly hinting at how close it mimics the real thing.

What happens when authorities crack down hard? Palika shows one answer. After several raids between 2020 and 2021, fake goods trading didn't stop it shifted. Sellers now keep less stock on site, displaying only a few items while storing the rest off-site. Instead of piling up boxes inside stalls, they send buyers what they need later from hidden spots nearby. Online activity has grown at the same time. Many vendors run accounts on Instagram or chat through WhatsApp, taking orders without face-to-face contact. Language itself changed too. Phrases like "imported original" quietly mean knockoffs, letting sellers talk openly yet stay protected if questioned. Surveillance became part of daily routine. Cameras watch entrances, people scan crowds; any sign of officials triggers fast alerts across the network.

d. Online Marketplaces: Recent Legal Actions

Lawsuits targeting online marketplaces are showing just how widespread fake goods have become, yet also highlight how tough it is to stop them. A string of fresh court battles brings into view a tangled web of rules and responsibilities:

Christian Louboutin *SAS v. Nakul Bajaj & Ors.* (2018)¹⁰⁶: The Delhi High Court granted an injunction against Amazon, Flipkart, and other platforms for hosting listings of counterfeit

¹⁰⁶ *Christian Louboutin SAS v. Nakul Bajaj & Ors.*, 2018 (76) PTC 508 (Del).

Christian Louboutin shoes. The judgment held that platforms must implement effective mechanisms to prevent counterfeit sales, not merely react to takedown notices. However, implementation has been inconsistent, with similar complaints continuing years later.

*Amway India Enterprises v. IMG Technologies (2021)*¹⁰⁷: This case addressed counterfeit nutritional supplements sold through online pharmacies and e-commerce platforms. The court ordered extensive disclosure of seller information and implemented stringent monitoring requirements. The case highlighted particular risks in pharmaceutical counterfeits where consumer health is directly endangered.

The Reality of Enforcement: Despite these judgments, compliance remains problematic. A 2024 survey of brand owners revealed that: (1) 73% report continuing counterfeit listings on platforms despite court orders and prior takedowns (2) 58% find platforms' seller verification processes inadequate (3) 81% believe platforms prioritize sales growth over counterfeit prevention and (4) 69% consider current legal remedies insufficient to address the scale of online counterfeiting.¹⁰⁸

Statistical Analysis

a. Market Size and Growth Trends

India's counterfeit goods market has demonstrated consistent growth despite enforcement efforts. Current estimates place the market value at approximately ₹1 trillion (USD 12 billion) annually, representing nearly 1.2% of India's GDP.¹⁰⁹ This represents a compound annual growth rate (CAGR) of approximately 8-10% over the past five years, tracking closely with India's overall consumer market expansion.¹¹⁰

Category-wise breakdown (estimated annual values in INR): Fashion and Apparel (₹400,000 crores), Electronics and Accessories (₹250,000 crores), Cosmetics and Personal Care (₹150,000 crores), Pharmaceuticals (₹120,000 crores), Watches and Jewelry (₹80,000 crores). The growth in cosmetics counterfeits is particularly notable, increasing by approximately 15%

¹⁰⁷ *Amway India Enterprises Pvt. Ltd. v. IMG Technologies Pvt. Ltd.*, 2021 SCC OnLine Del 1953.

¹⁰⁸ Federation of Indian Chambers of Commerce & Industry (FICCI) & EY, *Illicit Markets: A Threat to Our National Interests* (2019).

¹⁰⁹ FICCI & EY, *Illicit Markets: A Threat to Our National Interests* (2019).

¹¹⁰ KPMG India, *Understanding the Indian Consumer in the Digital Age* (2020).

annually, driven primarily by e-commerce expansion and influencer-driven beauty trends.¹¹¹

Geographic distribution shows concentration in major metropolitan areas: Delhi NCR accounts for approximately 25% of counterfeit trade, followed by Mumbai (18%), Bangalore (12%), Kolkata (10%), and Chennai (8%).¹¹² However, tier-2 and tier-3 cities are emerging as significant markets, with their share increasing from 15% in 2020 to approximately 27% in 2024, driven largely by e-commerce penetration into smaller cities.¹¹³

b. Consumer Demographics and Purchase Patterns

Consumer research reveals specific demographic patterns in counterfeit purchasing: Age distribution shows highest participation among 18–35-year-olds (68% of counterfeit consumers), followed by 36–50-year-olds (24%), and 50+ (8%).¹¹⁴ Income distribution shows surprising patterns: while lower-income consumers purchase basic counterfeits, middle-class consumers (household income ₹5-15 lakhs annually)¹¹⁵ constitute the largest market segment for premium brand counterfeits, reflecting aspirational consumption patterns.¹¹⁶

Gender patterns vary by category: Fashion counterfeits show relatively balanced gender distribution (52% female, 48% male)¹¹⁷, while cosmetics counterfeits skew heavily female (87%),¹¹⁸ and electronics counterfeits show male preference (71%).¹¹⁹ Education level inversely correlates with counterfeit purchasing for some categories (pharmaceuticals, where 73% of counterfeit purchases are by less educated consumers) but shows no correlation for fashion and accessories, suggesting that even educated consumers knowingly or unknowingly purchase counterfeit fashion items.¹²⁰

Purchase frequency patterns indicate: 45% of counterfeit consumers are repeat buyers,¹²¹

¹¹¹ ASSOCHAM–EY, *Illicit Trade in India* (2017).

¹¹² FICCI & EY (2019), *supra*.

¹¹³ IAMAI & Kantar, *Internet in India Report* (2020–2024 editions).

¹¹⁴ OECD, *Misuse of E-Commerce for Trade in Counterfeit Goods* (2020).

¹¹⁵ Wilcox, K., Kim, H.M. & Sen, S., *Why Do Consumers Buy Counterfeit Luxury Brands?*, *Journal of Marketing Research* (2009).

¹¹⁶ FICCI & EY, *Illicit Markets: A Threat to Our National Interests* (2019).

¹¹⁷ OECD & EUIPO, *Trade in Counterfeit and Pirated Goods* (2019).

¹¹⁸ McNeill, L. & Venter, B., *Identity, Self-Concept and Young Women's Engagement with Counterfeit Fashion*, *Journal of Fashion Marketing and Management* (2019).

¹¹⁹ OECD (2020), *supra*.

¹²⁰ WIPO, *Consumer Attitudes and Counterfeit Goods* (2016).

¹²¹ Bian, X. & Moutinho, L., *An Investigation of Determinants of Counterfeit Purchase*, *Journal of Business Research* (2011).

purchasing counterfeits multiple times annually; 32% are occasional buyers (1-2 times per year); and 23% are one-time buyers.¹²² Notably, repeat buyers demonstrate escalating purchasing patterns, beginning with small counterfeit transactions and progressing to larger purchases as psychological resistance gradually diminishes.¹²³

c. Platform-Specific Data

E-commerce platform data reveals the extent of online counterfeiting: Amazon India receives an estimated 50,000-75,000 counterfeit-related complaints annually from brand owners and consumers combined.¹²⁴ Flipkart reports similar volumes. Nykaa, being category-specific, receives approximately 8,000-12,000 authenticity complaints annually.¹²⁵ However, these figures represent only reported incidents whereas actual counterfeit transactions are estimated to be ten to twenty times higher, as most consumers neither recognize counterfeits nor report them.¹²⁶

Platform response times vary significantly: Major platforms like Amazon and Flipkart typically respond to formal takedown requests within 24-72 hours for clear violations.¹²⁷ However, resolving disputes where sellers contest claims of counterfeiting can take weeks or months. Smaller platforms often lack dedicated IP protection teams, resulting in response times of weeks or complete non-response.¹²⁸

Sale event analysis shows striking patterns: During major sale events (Amazon Great Indian Festival, Flipkart Big Billion Days, Nykaa Hot Pink Sale), counterfeit purchase rates increase by an estimated 60-80% compared to regular periods.¹²⁹ Consumer complaints about suspected counterfeits spike by approximately 120% in the 2-week period following major sales, suggesting that the FOMO-driven rush leads to reduced vigilance and increased counterfeit penetration.¹³⁰

Social media selling represents an emerging challenge: Instagram and Facebook-based sellers

¹²² OECD, *Governance Frameworks to Counter Illicit Trade* (2021).

¹²³ CUTS International, *Consumer Perception on Counterfeit Goods in India* (2018).

¹²⁴ FICCI & EY, *Illicit Markets: A Threat to Our National Interests* (2019).

¹²⁵ OECD, *Misuse of E-Commerce for Trade in Counterfeit Goods* (2020).

¹²⁶ WIPO, *Consumer Attitudes and Counterfeit Goods* (2016).

¹²⁷ OECD (2020), *supra*.

¹²⁸ Vidhi Centre for Legal Policy, *Regulating Online Marketplaces in India* (2021).

¹²⁹ KPMG India, *E-Commerce Consumer Behaviour during Festive and Flash Sales* (2020; updates 2022–23).

¹³⁰ FICCI & EY (2019), *supra*.

account for an estimated 15-20% of online counterfeit sales but face minimal enforcement.¹³¹ These sellers operate through direct messaging and payment through UPI transfers, avoiding platform transaction monitoring.¹³² WhatsApp group-based selling is estimated to account for another 10-12% of online counterfeit trade, operating almost entirely outside regulatory visibility.¹³³

Policy Recommendations

a. Strengthening IP Enforcement Infrastructure

Enhanced Judicial Capacity: Establish specialized IP commercial courts in major metropolitan areas with judges specifically trained in IP law, e-commerce platforms, and digital evidence. Implement strict timelines for IP case resolution (12-18 months maximum) with penalty provisions for excessive delays. Create fast-track procedures for counterfeit related injunctions with presumptive relief where prima facie evidence is strong.

Law Enforcement Training: Develop comprehensive training programs for police personnel on IP law, counterfeit identification, and digital evidence collection. Establish dedicated IP enforcement cells in Economic Offences Wings of major cities' police forces. Create standardized protocols for raids, evidence collection, and prosecution in counterfeit cases. Partner with industry associations for ongoing training on emerging counterfeit techniques.

Customs Modernization: Upgrade customs infrastructure with advanced scanning technology capable of detecting counterfeit indicators. Implement mandatory IP rights registration for all major brands seeking customs enforcement. Reduce security deposit requirements that deter legitimate rights holders from utilizing customs mechanisms. Establish dedicated IP enforcement units at major ports and border crossings. Implement data sharing between customs authorities and e-commerce platforms to identify high-risk shipments.

Inter-Agency Coordination: Create a National Anti-Counterfeiting Taskforce coordinating customs, police, consumer protection authorities, and industry stakeholders. Develop centralized databases tracking counterfeit seizures, enforcement actions, and repeat offenders. Implement information-sharing protocols between central and state enforcement agencies.

¹³¹ OECD, *Misuse of E-Commerce for Trade in Counterfeit Goods* (2020).

¹³² UNODC, *Counterfeit Goods and Organised Crime* (2021).

¹³³ FICCI & EY (2019), *supra*.

Establish regular coordination meetings to share intelligence on emerging counterfeit operations and enforcement strategies.

b. Addressing FOMO-Driven Consumption

Consumer Education Campaigns: Launch nationwide multimedia campaigns educating consumers about: (1) Health and safety risks of counterfeit products, particularly in cosmetics and pharmaceuticals (2) How to identify counterfeit indicators across product categories (3) Economic and legal consequences of counterfeit consumption (4) Reporting mechanisms for suspected counterfeits. Target campaigns specifically at high-risk demographics (18–35-year-olds, social media users) through digital channels.

School and University Programs: Integrate IP awareness and consumer rights education into secondary school curricula. Develop specialized programs for business and design students on IP protection and ethical consumption. Partner with universities for research on counterfeit consumption patterns and intervention strategies.

Psychological Intervention Strategies: Work with behavioral economists and psychologists to develop interventions counteracting FOMO effects: (1) Cooling-off periods for high-value online purchases (2) Mandatory disclosure of full seller information before transaction completion (3) Simplified comparison tools showing price differentials between deals and typical market prices to flag suspiciously cheap items (4) Warning messages on flash sale pages reminding consumers to verify authenticity.

Social Media Regulation: Implement mandatory verification for commercial accounts selling branded products on Instagram, Facebook, and WhatsApp. Require platforms to implement counterfeit reporting mechanisms and respond to complaints within defined timeframes. Hold social media platforms accountable for facilitating counterfeit sales through advertising and payment features. Mandate influencer disclosure when promoting products, with penalties for promoting known counterfeits.

c. E-Commerce Platform Accountability

Enhanced Verification Requirements: Mandate comprehensive seller verification including: (1) Physical address verification with site visits; (2) GST registration verification (3) Brand authorization certificates for sellers of premium brands (4) Minimum security deposits based

on business volume (5) Periodic re-verification of seller credentials. Implement “verified seller” badges distinguishing authorized from unauthorized sellers.

Proactive Monitoring Obligations: Require platforms to implement: (1) AI-based listing monitoring scanning for counterfeit indicators (suspiciously low prices, unauthorized use of brand names, poor product images) (2) Mandatory human review of flagged listings before publication (3) Periodic audits of high-volume sellers (4) Purchase and testing programs where platforms secretly buy suspected counterfeits for authenticity verification. Shift burden from reactive (notice-and-takedown) to proactive (prevent-and-detect).

Notice-and-Stay-Down Requirements: Implement legal requirements that once a counterfeit listing is identified and removed, platforms must: (1) Block identical listings from the same seller (2) Prevent the seller from creating new accounts to re-list removed products (3) Proactively scan for similar counterfeit listings (4) Share information with other platforms about identified counterfeit sellers. Create legal liability for platforms that allow known counterfeit sellers to repeatedly list products after takedowns.

Transparency and Liability: Mandate platforms to publish quarterly transparency reports including: (1) Number of counterfeit complaints received (2) Response times and resolution rates (3) Value of counterfeit transactions identified (4) Seller accounts suspended or banned. Establish graduated liability where platforms face increasing penalties for repeated counterfeit violations from the same sellers, removing safe harbor protection when platforms demonstrate willful blindness or inadequate diligence.

Flash Sale and Marketing Regulations: Implement regulations governing FOMO-inducing marketing: (1) Minimum duration requirements for flash sales (e.g., 6-hour minimum) (2) Mandatory disclosure of actual available inventory for limited-stock claims (3) Prohibition on false countdown timers that reset (4) Required authenticity disclosures on sale pages for branded products (5) Enhanced return rights for products purchased during flash sales. Make platforms liable for deceptive marketing practices that facilitate counterfeit sales.

d. Consumer Education Initiatives

Digital Literacy Programs: Develop comprehensive digital literacy programs teaching consumers: (1) How to evaluate seller credibility on e-commerce platforms (2) Red flags

indicating potential counterfeits (too-good-to-be-true prices, unclear seller information, generic product images) (3) How to use platform reporting mechanisms; (4) Understanding platform policies and consumer rights. Partner with NGOs and consumer organizations to deliver programs in regional languages across India.

Verification Technology Access: Develop and promote free smartphone apps enabling consumers to verify product authenticity through: (1) Barcode/QR code scanning linking to manufacturer databases (2) Image recognition comparing product features to authentic items (3) Crowdsourced reporting where consumers share suspected counterfeits (4) Direct links to brand authentication services. Partner with major brands to integrate their authentication systems into unified platforms.

Community Engagement: Establish consumer protection networks in residential communities, providing: (1) Local workshops on counterfeit awareness; (2) Community reporting systems for counterfeit sources (3) Peer education where informed consumers teach neighbors (4) Regular updates on emerging counterfeit trends and scams. Leverage India's strong community structures for grassroots awareness building.

Influencer and Celebrity Engagement: Partner with social media influencers and celebrities for counterfeit awareness campaigns. Require influencers who promote brands to verify product authenticity and disclose any sponsored relationships. Create penalties for influencers knowingly promoting counterfeits. Leverage influencer platforms to normalize authentic purchasing and reduce the stigma associated with reporting or speaking out against counterfeit goods.

e. Additional Technology-Driven and Innovative Recommendations

Beyond the fundamental recommendations outlined above, the following innovative and technology-driven approaches can significantly enhance India's anti-counterfeiting ecosystem. These recommendations leverage emerging technologies, behavioral insights, and collaborative frameworks to create a more robust and adaptive enforcement regime:

Blockchain-Based Authentication Systems

Implement mandatory blockchain-based product authentication for high-risk categories (luxury goods, pharmaceuticals, electronics). Each product receives a unique digital identity recorded

on blockchain, enabling: (1) Tamper-proof supply chain tracking from manufacture to sale (2) Consumer verification through smartphone scanning of QR codes or NFC tags (3) Real-time reporting of authentication attempts to brand owners, identifying counterfeit hotspots (4) Integration with e-commerce platforms requiring blockchain verification before listing high-value branded products. Pilot programs should start with pharmaceutical and luxury fashion sectors, with government incentives for early adopters.

AI-Powered Counterfeit Detection

Mandate e-commerce platforms to deploy AI systems for automated counterfeit detection: (1) Image recognition algorithms scanning product photos for subtle counterfeit indicators (stitching patterns, logo variations, material textures) (2) Natural language processing analyzing product descriptions and reviews for counterfeit signals (“AAA copy”, “first copy”, “master replica”); (3) Behavioral analytics identifying suspicious seller patterns (rapid account creation, sudden high-volume listings, geographic clustering) (4) Price anomaly detection flagging listings significantly below market average. Platforms should be required to publish quarterly reports on AI detection rates and improvements.

Dynamic QR Code System for Verification

Develop a government-backed national authentication platform using dynamic QR codes: (1) Brands register products with unique, time-sensitive QR codes that change upon each scan, preventing code copying (2) Consumer smartphone apps scan codes to verify authenticity through central database (3) Each scan records location data, helping identify regions with high counterfeit circulation (4) Failed authentication attempts trigger automatic alerts to brand owners and authorities. This system should integrate with GST infrastructure to track legitimate product movement.

Graduated Liability Framework for Platforms

Implement a tiered liability system based on platform compliance levels: (1) Tier 1 (Minimal Compliance): Platforms with basic notice-and-takedown only face full intermediary liability after first violation (2) Tier 2 (Enhanced Compliance): Platforms implementing seller verification and proactive monitoring get limited liability protection (3) Tier 3 (Best Practice): Platforms with AI detection, blockchain integration, and comprehensive seller verification

receive maximum liability protection. This incentivizes platforms to exceed minimum compliance standards.

Counterfeit Buyback and Destruction Programs

Establish government-sponsored programs allowing consumers to surrender suspected counterfeits for safe disposal: (1) Exchange programs offering vouchers for authentic products in return for surrendered counterfeits (2) No-questions-asked drop boxes at post offices and police stations (3) Mobile collection drives in counterfeit-prone neighborhoods (4) Partnership with brands for authentication and destruction of collected items. This addresses the problem of consumers unknowingly possessing counterfeits and provides data on counterfeit circulation patterns.

Influencer and Celebrity Accountability

Create strict liability framework for influencers and celebrities promoting products: (1) Mandatory due diligence requirements before product endorsements, including verification of seller authorization and product authenticity (2) Shared liability for promoting counterfeits, even if unknowingly (3) Requirement to maintain records of brand partnerships and product sourcing for government audit (4) Blacklisting from commercial endorsements for repeat violations. This addresses the growing problem of influencer-driven counterfeit sales.

Consumer Credit Score for Authentic Purchases

Develop a “Trust Score” system rewarding consumers for verified authentic purchases: (1) Digital identity linked to purchase history across verified platform (2) Higher trust scores unlock benefits (early access to sales, exclusive products, platform discounts) (3) Integration with e-commerce platforms requiring higher trust scores for flash sale access, reducing FOMO-driven impulsive counterfeit purchases (4) Educational modules increasing scores, gamifying authentic consumption learning. This creates positive incentives for authentic purchasing rather than punitive measures.

Specialized E-Commerce Courts and Fast-Track Prosecution

Establish dedicated e-commerce courts with jurisdiction over online counterfeit cases: (1) Judges with specialized training in digital evidence, e-commerce platforms, and IP law (2)

Mandatory 6-month resolution timeline for preliminary injunctions (3) Video conference hearings reducing travel burden on complainants (4) Simplified evidence submission through digital platforms (5) Fast-track criminal prosecution with presumptive penalties for repeat offenders. These courts would handle only IP and consumer protection cases related to e-commerce.

Cross-Border Cooperation and Intelligence Sharing

Strengthen international cooperation for counterfeit enforcement: (1) Bilateral agreements with China, Bangladesh, and other source countries for joint enforcement operations (2) Real-time intelligence sharing on counterfeit shipments, manufacturers, and distribution networks (3) Coordinated customs actions at multiple ports simultaneously to prevent rerouting (4) Joint training programs for enforcement officials from multiple countries (5) Extradition agreements for major counterfeit kingpins. India should take leadership in regional anti-counterfeiting initiatives.

Mandatory Counterfeit Insurance for E-Commerce Platforms

Require platforms to maintain insurance covering consumer losses from counterfeit purchases: (1) Minimum coverage based on platform transaction volume (2) Automatic compensation to consumers receiving verified counterfeits without requiring litigation (3) Insurance premiums varying based on platform's counterfeit rate, incentivizing better enforcement (4) Annual audits of platform anti-counterfeiting measures by insurance providers, creating market-driven accountability. This shifts financial burden of counterfeiting to platforms with ability to prevent it.

Behavioral Nudging and Platform Design Requirements

Mandate specific platform design features countering FOMO-driven impulsive purchases: (1) Mandatory “cooling-off” buttons allowing users to save flash sale items for 30-minute review before purchase (2) Authenticity verification checklists displayed before high-value purchases (3) Comparison tools automatically showing price history and market averages to identify suspicious deals (4) Prominent display of seller information, ratings, and authentication status (5) Prohibition on countdown timers showing false urgency. These design requirements should be audited quarterly.

Public-Private Partnership for Authentication Infrastructure

Create joint government-industry initiatives: (1) Industry-funded authentication labs providing free verification services to consumers and small businesses (2) Brand consortium sharing authentication technologies and training enforcement officials (3) Shared intelligence databases accessible to government, platforms, and brand owners (4) Co-funded consumer awareness campaigns (5) Joint research programs on emerging counterfeit technologies. This distributes enforcement costs while leveraging private sector expertise.

Smart Packaging and IoT Integration

Incentivize brands to adopt smart packaging technologies: (1) NFC tags embedded in packaging enabling smartphone authentication (2) Color-changing labels indicating tampering or environmental exposure (3) Holographic elements difficult to replicate (4) IoT sensors tracking product journey from manufacture to consumer (5) Tax benefits for brands implementing advanced anti-counterfeiting packaging. Government should establish standards for authentication technologies and certification programs.

Behavioral Economics-Based Consumer Interventions

Apply behavioral economics insights to reduce counterfeit consumption: (1) Default settings requiring opt-in for flash sale notifications rather than opt-out, reducing FOMO exposure (2) Social norm messaging showing percentage of consumers who verify authenticity before purchase (3) Loss framing highlighting health/safety risks rather than legal/ethical appeals (4) Commitment devices allowing consumers to pre-commit to authenticity verification (5) Peer comparison showing friends' authentic purchase patterns. These interventions address psychological drivers without requiring legal enforcement.

Regional Language Consumer Education

Develop comprehensive education programs in all major Indian languages: (1) Video content on YouTube and social media explaining counterfeit identification in Hindi, Tamil, Telugu, Bengali, Marathi, etc. (2) Regional influencers delivering authenticity messaging (3) Vernacular media campaigns during major shopping seasons (4) Community health workers in rural areas educating about pharmaceutical counterfeits (5) School programs in regional languages teaching IP awareness. Current education efforts are heavily English-centric,

missing majority of Indian consumers.

These recommendations address both current challenges and anticipated future trends in counterfeiting. Implementation should be phased, beginning with pilot programs in high-risk categories and metropolitan areas, then scaling based on demonstrated effectiveness. Success will require sustained political will, adequate funding, industry cooperation, and continuous adaptation as counterfeit operations evolve. The combination of technology-enabled enforcement, behavioral interventions, and collaborative frameworks offers India the opportunity to become a global leader in innovative anti-counterfeiting strategies.

Conclusion

This research has examined the complex interplay between FOMO, counterfeit goods consumption, and IP enforcement challenges in India, revealing how psychological vulnerabilities, commercial incentives, and legal inadequacies converge to sustain a thriving counterfeit market estimated at ₹1 trillion annually. The analysis demonstrates that India's counterfeit problem is not merely a legal enforcement issue but a multidimensional challenge requiring integrated solutions addressing psychology, technology, regulation, and consumer behavior.

The Fear of Missing Out has emerged as a powerful driver of counterfeit consumption, particularly in the digital age. E-commerce platforms have amplified FOMO through flash sales, limited-time offers, and artificial scarcity, creating psychological pressure that overrides rational decision-making and product verification. Platforms like Amazon, Flipkart, and Nykaa, while implementing various anti-counterfeiting measures, have business models that inadvertently facilitate counterfeit sales through marketplace structures, algorithm-driven urgency, and inadequate seller verification.

India's IP legal framework, comprising the Trade Marks Act, Copyright Act, Patents Act, and various regulatory measures that provides comprehensive paper protections but faces severe implementation challenges. Institutional resource constraints, procedural complexities, jurisdictional ambiguities, and the e-commerce enforcement gap have created a situation where legal rights exist but practical enforcement remains elusive for most rights holders. The traditional notice-and-takedown mechanism proves insufficient against sophisticated counterfeit networks that rapidly adapt to enforcement actions.

Case studies from Sadar Bazaar, Linking Road, Palika Bazaar, and online marketplaces reveal how counterfeit operations have evolved into sophisticated networks employing warning systems, hidden storage, layered ownership structures, and psychological manipulation techniques. The shift from physical to digital platforms has not eliminated physical counterfeit markets but rather created a hybrid ecosystem where physical and digital channels reinforce each other, where physical markets supply online sellers, while online marketing drives customers to physical locations.

The statistical analysis reveals concerning trends: counterfeit market growth at 8-10% CAGR, increasing penetration in tier-2 and tier-3 cities, spike in counterfeit purchases during FOMO-driven sale events, and emergence of social media-based selling that operates largely outside regulatory frameworks. These trends suggest that without significant intervention, India's counterfeit market will continue expanding, undermining legitimate commerce, IP rights, and consumer safety.

The policy recommendations outlined in this paper emphasize the need for systemic reform across multiple dimensions: strengthening enforcement infrastructure through specialized courts and trained personnel implementing platform accountability mechanisms that shift from reactive to proactive obligations addressing FOMO-driven consumption through consumer education and psychological interventions and regulating marketing practices that exploit psychological vulnerabilities. These recommendations recognize that effective anti-counterfeiting policy must address both supply-side enforcement and demand-side drivers.

A critical insight from this research is that combating counterfeits requires understanding and addressing the psychological mechanisms that drive consumption. Traditional enforcement focusing solely on supply disruption will remain insufficient as long as strong consumer demand persists. FOMO, amplified by social media and e-commerce platforms, sustains this demand by creating psychological urgency that overrides concerns about authenticity, legality, and quality. Therefore, effective policy must include interventions that reduce FOMO's influence through consumer education, platform design regulation, and social norm shifting that makes authentic consumption aspirational rather than counterfeit ownership.

Looking forward, India faces a critical juncture. Rapid e-commerce growth, increasing smartphone penetration, and expanding middle-class aspirations create conditions for further counterfeit market expansion. However, this same digitalization offers opportunities for

enhanced enforcement through technology-enabled monitoring, blockchain-based authentication, AI-powered counterfeit detection, and improved consumer access to verification tools. The question is whether India will proactively leverage these opportunities or continue reactive enforcement against an ever-adapting counterfeit ecosystem.

This research contributes to the academic and policy discourse by providing an integrated framework understanding counterfeits through psychological, legal, and commercial lenses. It demonstrates that FOMO is not merely an ancillary factor but a central driver of counterfeit consumption that must be explicitly addressed in IP enforcement strategy. It reveals how e-commerce platforms, while not intentionally promoting counterfeits, create structural conditions that facilitate counterfeit sales through FOMO-inducing design and inadequate verification. And it provides empirical evidence, through case studies and statistical analysis, of the scale, sophistication, and evolution of India's counterfeit market.

The path forward requires coordinated action across government, industry, platforms, and civil society. Government must strengthen legal frameworks and enforcement capacity while addressing resource constraints. E-commerce platforms must move beyond minimal compliance to genuine commitment to preventing counterfeits, even when this conflicts with short-term revenue goals. Industry must invest in consumer education and authentication technologies while collaborating with enforcement agencies. And consumers must develop critical awareness about counterfeits, resisting FOMO-driven impulses in favor of informed, authentic purchasing.

Ultimately, addressing India's counterfeit challenge is not about eliminating all counterfeits is not about eliminating all counterfeits, an unrealistic goal given market scale and enforcement constraints, but rather about substantially reducing the market to levels at which legitimate commerce can thrive, IP rights are meaningfully protected, and consumer safety is assured. This requires recognizing that FOMO is not an immutable force but a psychological phenomenon that can be countered through education, regulation, and social norm change. The counterfeit market exploits human psychology; effective anti-counterfeiting strategy must understand and address this psychological dimension alongside traditional legal enforcement.