



**anti
counterfeit
authority**
Promoting Genuine

ANTI-COUNTERFEIT NEWSLETTER

TENTH EDITION - 2020



Chief Justice Hon. David Maraga launches the Revised 2nd Edition of the Enforcement Manual to Combat Illicit Trade in Kenya

23rd October 2020, Nairobi

Despite Kenya having various laws and regulations to curb illicit trade, the legal regime has not done much to stop illicit trade in the country. As a result of this, government agencies tasked with fighting illicit trade came up with the inaugural edition of the Enforcement Manual to Combat Illicit Trade in Kenya in 2014 to address enforcement concern against this trade.

The second edition, a revised edition was launched yesterday by the Chief Justice and President of the Supreme Court of Kenya Hon. Justice David K. Maraga at his office in Nairobi. The launch coincided with the opening of a virtual training of judges & magistrates under the program of Continuing Judicial Education

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FOREWORD



Ms Fridah Kaberia
Ag. Executive Director

“Our enforcement team and other government agencies are on high alert to ensure counterfeit COVID 19 demand driven household products will not make way to the market.”

We are pleased to present the 10th issue of our Biannual Anti-Counterfeit Newsletter that is coming during unprecedented times of COVID 19 pandemic.

Last year, Anti-Counterfeit Authority had just celebrated its 10th anniversary and had clear focus and fresh start plans for the next decade derived from the experience gained in the last ten years since its inception.

However, it was not to be. The arrival of the covid-19 pandemic quickly changed how we do business. We had to adhere to new government directives on social distancing and other mitigation factors. The changes affected our operations leading to scaled down operations and interrupted planned physical meetings and public awareness and enforcement events.

It is sad to report that with the emergence of Covid-19 pandemic; we have seen an upsurge of unscrupulous traders taking advantage of the pandemic to be just another business opportunity. With us, we have live matters of manufacturing and selling of counterfeit

COVID 19 demand driven household products including facemasks and sanitizers. These are unsafe and dangerous products of poor quality exposing our frontline officers and everyone using them to the risk of infection.

Fortunately, our enforcement team and other government agencies are on high alert to stop these criminals. We have strengthened our inter-agency enforcement at all ports of entry and will continue sharing information and increasing surveillance to ensure these products will not make way to the market.

Lastly, we would like to apologize to our stakeholders who in one way another may have been affected by our service delivery disruptions as a result of the mitigation and business continuity measures we have put in place as a result of COVID 19 pandemic and at the same time express our deepest sympathies to those who have been affected by the pandemic.

We welcome you once again and enjoy the reading.

CORPORATE NEWS

ACA Board of Directors Announces the Appointment of M/s. Fridah Kaberia to the Position of Acting Executive Director

23rd October 2020, Nairobi

The Board of Directors of Anti -Counterfeit Authority is pleased to announce the appointment of Ms. Fridah Kaberia to the position of acting Executive Director for the Authority.

The appointment follows the exit of Mr. Elema Halake, the former Executive Director who left after the expiry of his contract having served the Authority for a period of three (3) years and three (3) months.

Ms. Kaberia previously served as the Deputy Director in charge of Corporate Services as well as performing the functions of the Corporation Secretary. She has been instrumental in developing the overall ACA corporate strategy, overseeing key functions of Human Resource & Administration, Finance and Accounts, ICT and Public Communication.

As the acting Executive Director, Ms. Kaberia will provide leadership by overseeing the overall corporate strategy and seamless service delivery in the fight against counterfeits for a period of Six (6) months pending the finalization of the merger of Kenya Industrial Property Institute, Kenya Copyright Board and the Anti - Counterfeit Authority.

Ms. Fridah Kaberia holds a Master's in Business Administration and Finance and a degree in Bachelor of Arts (Economics) from the University of Nairobi. She is also a Certified Public Accountant, a Certified Secretary and additionally has trained in various strategic leadership and governance courses. Ms. Kaberia joined the Authority in 2010 and has served in various capacities in the Authority. She has over 16 years' experience in financial management and leadership in both Private and Public sector.



Recently appointed acting executive director Ms Fridah Kaberia, who got the position following the exit of former executive director Mr Elema Halake.



(Left to right) Chair of the Board of the Anti-Counterfeit Authority Ms. Flora Mutahi, Director of the Judiciary Training Institute Hon. Justice Kathurima M'inoti, Chief Justice Hon. David Maraga, Chairman of the Kenya Association of Manufacturers Mr. Mucai Kunyiha

on the Protection & Enforcement of Intellectual Property and Related Forms of Illicit Trade in Kenya.

The Chief Justice was accompanied by the Director of the Judiciary Training Institute Hon. Justice Kathurima M'inoti, Chairman of the Kenya Association of Manufacturers Mr. Mucai Kunyiha and the Chair of the Board of the Anti-Counterfeit Authority Ms. Flora Mutahi.

Speaking at the launch event, the Chief Justice said 'This manual is intended to be used as an aid for law enforcement agencies, including those involved in the prosecution of crimes related to illicit trade and the enforcement of the laws against the trade offenders. It will act a guide for prosecutors handling matters.

According to the National Baseline Survey Counterfeit and Illicit Trade in Kenya, that was launched in July this year, the total volume of illicit trade stood at Sh726 billion in 2017 and increased to Sh826 billion in 2018.

The statistics represent 8.9 per cent and 9.3 per cent of Kenya's GDP, which is higher than the manufacturing

sector's contribution to the country's economy. Illicit trade undermines the concept of a free and open marketplace which is fundamental to improving competitiveness, increasing investment, generating jobs and improving the economic situation (Vision 2030) not only in Kenya but also in all the EAC partner states collectively.

The Chairman of the Kenya Association of Manufacturers Mr. Mucai Kunyiha said that Illicit trade in its varying forms posed a huge problem to manufactures in Kenya. "The financial loses it occasions have affected the private sector where investments in new business have decreased due to an increase in the costs of doing business" He said.

The manual was developed through the collaborative efforts of state agencies and non-state actors that are committed to eliminating illicit trade under the leadership of the National Council on the Administration of Justice and the Kenya Association of Manufacturers (KAM).

ACA Donates 3000 Facemasks to Prison Staff to Combat Covid-19 Pandemic as a Corporate Social Responsibility Activity.

29th June 2020, Industrial Area Prison

With the rising spread of the pandemic COVID-19 in Kenya and globally, the Anti-Counterfeit Authority through Corporate Social Responsibility (CSR) Committee visited Nairobi's Industrial Area Prison facility and donated 3000 pieces of facemasks to prison administrators to ensure protection of staff as well as prisoners against coronavirus.

The choice of the correctional facility was necessitated by the high risk of contracting the virus due to the high number of visitors as well as numbers of confined people.

The Acting Executive Director at the Authority who led the ACA team M/s Fridah Kaberia noted that the Authority will continue to invest in sustainable Corporate Social Responsibility programs that support the vulnerable in our societies.

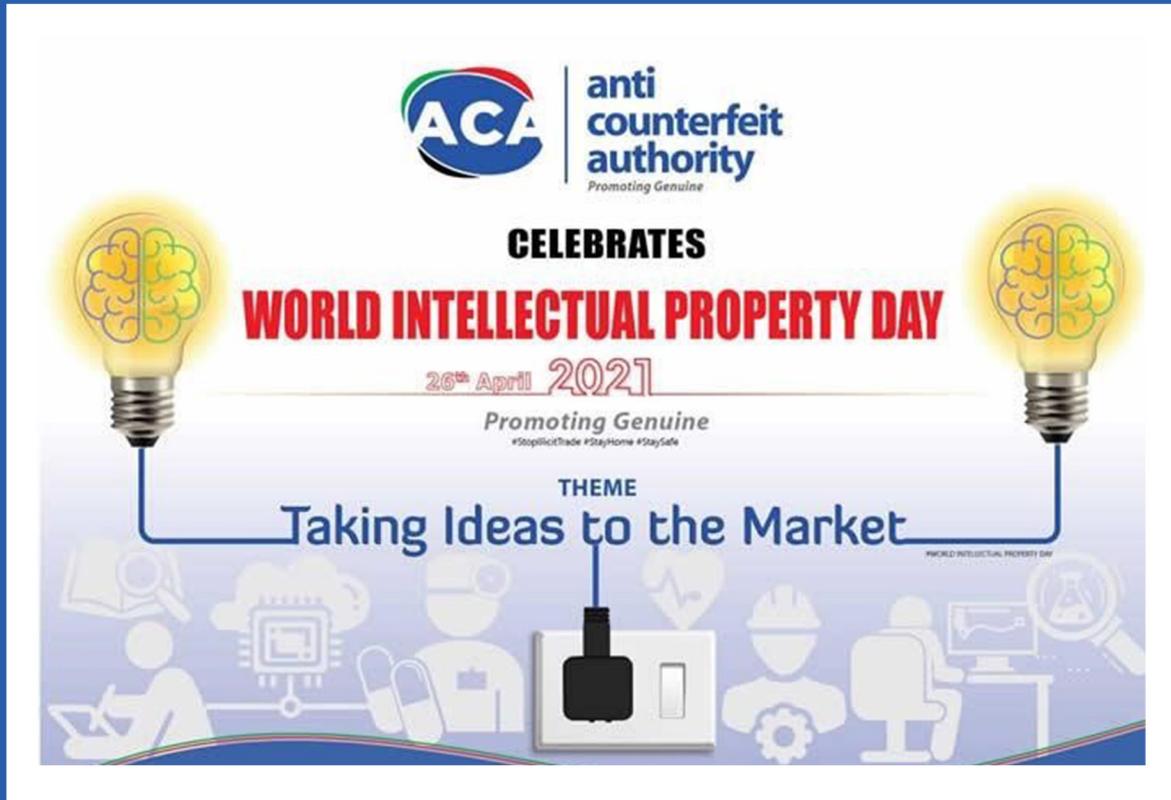
"We remain committed to being a good corporate citizen, giving back is part of our strategy as an organization and as individuals. Going forward especially during this pandemic and throughout the year, we will find areas of partnership with this facility in the spirit of good neighborliness and ensure that that we build a sustainable relationship to assist in areas of need", She started.

Addressing the ceremony, the Officer in charge, Stephen Waitthaka thanked ACA for the timely gesture saying that they receive people from the whole of Nairobi and neighboring counties putting the facility community at high risk of getting the virus and other communicable diseases. He said his facility would appreciate future engagement with ACA being close neighbors towards improving the welfare of the prison.



PUBLIC AWARENESS

ACA Commemorates World Intellectual Property Day 2021 through Online Webinars



27th April 2021

The Anti-Counterfeit Authority commemorated the World Intellectual Property Day on April 26 2021 by bringing together IP enthusiasts in two webinars on the role played by intellectual property (IP) rights in encouraging innovation and creativity.

This year's commemorations are happening during the current unprecedented times of COVID 19 Pandemic that limited physical commemorations as has been happening in the years before. The free to enter webinars one in partnership with JGIP Consultants, a Kenyan IP law firm and the other in conjunction with Kenya Industrial Property Institute drew over hundred online participants.

The participants drawn from IP Lawyers and Agents, creative minds, Kenya manufacturer and commerce representatives, government agency representatives, students, artists and artisans, designers, researchers, scientists and many others had an opportunity to learn about emerging issues in the IP system – trademarks,

design rights, copyright, patents, trade secrets, geographical indications, and discussed the role of protecting IP for economic development.

This year's theme is Intellectual Property (IP) and SMEs: Taking Ideas to the Market rhymes with the business incubation cycle since every business starts with an idea. Each of the millions of small and medium-sized enterprises (SMEs) that operate across the world every day started with an idea that took shape in someone's mind and made its way to market.

When nurtured and enriched with ingenuity, know-how and flair an idea becomes an IP asset that can drive business development, economic recovery and human progress.

Speaking at the event ACA Deputy Director for Research, Awareness, Policy and Quality Assurance Dr. John Akoten acknowledged that SMEs are the backbone of many economies in the world saying, "They hatch breakthrough innovations and inspiring creations, and they create jobs; some become the world-leading businesses of tomorrow". He added that SMEs deliver the goods and services that are needed every day of our lives.

Africa Industrialization Day

20th November 2020

The theme 2020 Africa Industrialization Day (AID), 'Inclusive and Sustainable Industrialization in ACFTA and Covid-19 Era', resonates very well with the mandate of the Anti-Counterfeit Authority of Kenya. Counterfeiting and other forms of illicit trade are a threat to the realization of sustainable industrialization and development in Kenya, other African countries and globally.



CS Madam Betty Maina giving a speech during the World Industrialization Day

The AID marked on 20th November was a culmination of the Africa Industrialization Week (AIW) of 16th to 20th November whose objective was to raise awareness on the strides made to industrialize Africa; and to highlight the various activities being implemented, as well as the challenges faced in the efforts to advance structural transformation in Africa. The event also provided an opportunity to share best practices from other parts of the globe that have made advances in their industrialization drives, including the development of start-ups.

The purpose of Africa Industrialization Day (AID), marked each year on November 20th, is to raise global awareness of the industrialization progress, challenges and problems faced by the African continent. Kenya through the Authority's parent ministry, the Ministry of Industrialization, Trade and Enterprise Development participated in both the AIW and the AID. The Ministry acknowledged Africans' industrial and entrepreneurial spirit demonstrated during these unprecedented times of the COVID -19 pandemic.

Industrial development is one of the key drivers of economic development and an undisputable determinant of any country's share in the lucrative global trade. Intellectual Property Rights play a pivotal role in promoting innovation, industrialization and creation of employment.

Propagation of Illicit trade, counterfeiting included, has an adverse effect on industrial growth, employment and the health and safety of consumers. Counterfeiting poses a serious socio-economic challenge nationally, regionally and globally. This calls for proactive engagements and strategizing by both the manufacturing sector and the Government to enhance economic growth.

Notably, counterfeiting is among many challenges facing the manufacturing sector; it undermines the concept of a free and open market which is fundamental to the enhancement of innovation, creativity, competitiveness, increased investment, job creation and improved economic situation in Kenya and the African continent at large. The manufacturing sector, a pillar in Kenya's Big Four development agenda; targets to have the sector's contribution to the Gross Domestic Product (GDP) rise from 8% in 2017 to 15% by 2022.

According to study undertaken by ACA in collaboration with other government agencies, private sector and the development partner Trade Mark East Africa (TMEA), illicit trade takes a significant share of GDP in Kenya at 8.9% and 9.3% in 2017 and 2018 respectively, almost at par with the contribution by the manufacturing sector. This demonstrates the great significance of continuously and aggressively addressing the infringement of intellectual property rights commonly referred to as counterfeiting. Counterfeiting remains a threat to the country's strategies of industrialization.

Since counterfeiting is closely inter-linked with other forms of illicit trade, a coordinated approach is imperative. ACA has been at the forefront to spearhead coordinated multi-agency collaborations leading the

development and unveiling of the National Action Plan and Implementation Framework to Combat Illicit Trade in Kenya in June 2019. This was a major milestone in the fight against illicit trade by ensuring a Government-wide coordinated approach.

The National Baseline Survey on Counterfeit and other forms of Illicit Trade in Kenya is yet another milestone towards the war on illicit trade in defense of the country's vision of industrial-led trade development and an investment destination economy as a result of the assured protection of Intellectual Property Rights. The study provides crucial baseline information that will act as a point of reference in the design of the strategies to fight illicit trade and the results to expect. It also brings out sobering details on the extent of this trade in the

country. Among these details is the total size of illicit trade, which was estimated at KES 826 billion in 2018, having risen from KES 726 billion in 2017.

Africans are known world over to be resilient and innovative; in the same stride, the Authority continues to work tirelessly to enforce the Anti-Counterfeit Act, 2008 and pursue collaborative partnerships to combat illicit trade by ensuring enforcement of intellectual property rights. This ensures the health and safety of consumers' while promoting innovation and industrialization in the country. The Authority appreciates all manufacturers and industrialists and encourages all, small to large entrepreneurs, upcoming and previously existing to protect their intellectual property and collaborate with ACA in their enforcement.

Virtual Sensitization Of The Intellectual Property Rights (IPR) Owners And Supply Chain Players In The Alcohol Sector – Nairobi County

15th June 2020, Nairobi

Trade plays a pivotal role in the economic development, employment and wealth creation in Kenya. The infiltration of counterfeit products compromises the role of trade as an engine of economic development in the country. Genuine and original products and brands are competed out of the market by counterfeit products and illicit products. Counterfeiting and other forms of illicit trade continue to obstruct the growth of business and adversely affect the health and safety of consumers, especially true with the proliferation of counterfeit and illicit alcohol beverages. The growth of the alcoholic beverages sector is driven by an increase in the popularity of alcohol consumption particularly among young adults and rise in consumer demand for premium alcoholic products. The Kenya alcohol sector continues to flourish evidenced by the numerous alcohol-manufacturing companies complimented with many distributors, retailers, hotels, restaurants and clubs. Cases of counterfeit and illicit brews have been on the Government's radar since 2015 when ACA was appointed to the rapid results initiative, spearheaded by the Ministry of Interior and Coordination of National government. The initiative sought to crack down illicit brews in the Central region and Nairobi area, which are said to be centers of illegal alcohol manufacture.

His Excellency the President of Kenya Uhuru Kenyatta declared war on illegally - brewed alcohol, leading to revocation of licenses of many outlets and destruction of stocks of the illicit alcoholic beverages. The Authority's efforts complimented by the Multi-Agency enforce-

ment team have made great strides in this war against illicit alcohol netting large amounts of illicit alcoholic beverages after inspection of several depots and outlets.

The COVID-19 Pandemic and subsequent precautions may have raised the possibility of consumption of alcoholic beverages following the lockdown and curfew restrictions through online purchases. Distributors, retailers and home-delivery services are thriving as consumers have shifted their alcoholic beverages purchasing habits leading to the steady increase of the sale of counterfeit and illicit alcoholic beverages over the past year. Kenyans have embraced electronic commerce with majority of products and services available online. To address the upsurge of the sale of counterfeit and illicit alcoholic beverages, ACA is undertaking a series of interactive engagements and sensitization forums to raise awareness against counterfeit and illicit alcoholic beverages.



Free Webinar for Intellectual Property Rights owners and Supply Chain players in the alcohol sector

 **Date**
15th June 2021
Time
0900hrs to 1300hrs

Theme
Say no to counterfeit and illicit alcohol for the health and safety of Kenyans!

Media Forum on Intellectual Property

November 6th 2020

Mombasa and coast region-based journalists attended ACA workshop on the role of media in the promotion Intellectual property rights (IPR).

The Anti-Counterfeit Authority hosted thirty (30) Mombasa and Kenya's coast region journalists to a half-day workshop on Intellectual Property Rights (IPR) promotion. The breakfast meeting cum workshop was held on Friday, Nov 6, 2020 at the Mombasa Beach Hotel. The interactive forum was organized in collaboration with the Media Council of Kenya and had a dynamic program with presentations by intellectual property experts from the Anti-Counterfeit Authority.

The topics included Intellectual Property Enforcement in Kenya and the Role of Media in Intellectual Property Rights promotion. Participants were taken through the journey in the war against counterfeits and illicit trade in Kenya, global IPR protection and enforcement strategies, Kenya's government efforts in the war against counterfeits and illicit trade. They gained deeper understanding of patents, trademarks, copyrights and illicit trade issues and met one-on-one with intellectual property experts.

This was the first such workshop held by the Anti-Counterfeit Authority in Mombasa as the Authority intends to host similar forums in different parts of the country. "We intent to bring together journalists from across the country (Nairobi, Central, Coast, Rift and Western Kenya) drawn from Electronic, Print, Vernacular or community media channels and bloggers in round table discussions so that they carry the flag of the Authority". Said Mr. Tom Muteti the Chief Corporate Communication

Officer at the Anti-Counterfeit Authority.

The Acting Executive Director of the Anti-Counterfeit Authority M/s Fridah Kaberia underscored the critical role played by media in creating public awareness saying; "Media not only have the potential to diffuse information in our society and but can influence public behavior and attitudes. We need informed partners so as to raise and shape the anti-counterfeit agenda and public opinion. Our aim is to compel consumers, counterfeiters and policy makers to act against trade in counterfeits in the country".

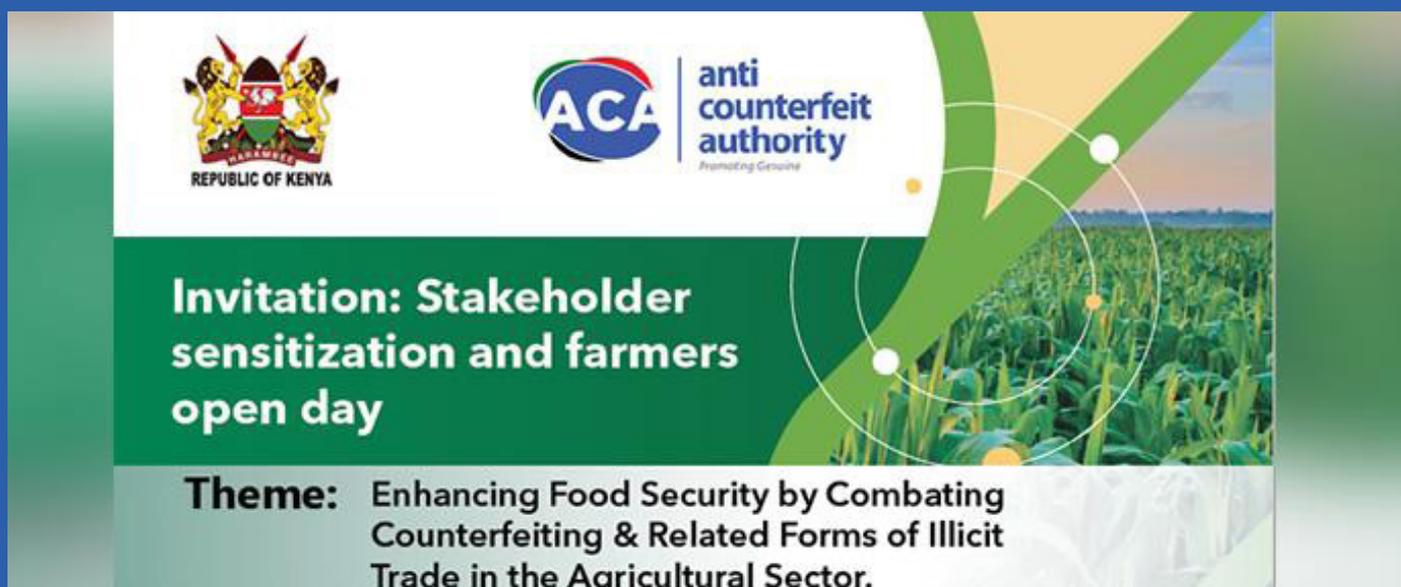
The forums come after the recent launch of the first National Baseline Survey on Counterfeiting and other forms of Illicit Trade in Kenya. From the statistics of the survey, the national total size of illicit trade in 2018 was estimated at KES 826 billion and rose by 14% from KES 726 billion recorded in 2017. The significance of this level of illicit trade is illustrated by its share in GDP, which in 2017 and 2018 was 8.9% and 9.3% respectively. This is slightly higher than the contribution of the manufacturing sector in the GDP which in 2018 was at 7.7%. Illicit trade is one of major economic growth impediments in the country.

The Government has since initiated the National Action Plan against counterfeit and illicit trade in the country. It is an all-out war against perpetrators with greater emphasis on partnering and collaboration with all stakeholders. M/s. Kaberia added that "we want to bring together all stakeholders in this war. We are in collaboration with other government agencies, the private sector through Kenya Association of Manufacturers, students and scholars, civil society among others. We want to partner with media towards making Kenya a Counterfeit Free Country".



Acting Executive Director of the Anti-Counterfeit Authority Ms Fridah Kaberia poses for a group photo with attendees of the media forum on Intellectual Property

Stakeholder Sensitization and Farmer's Open Day in North Rift (Uasin-Gishu and Trans-Nzoia Counties)



The Anti-Counterfeit Authority under the umbrella of the Multi-Agency Anti-Illicit Trade Outreach (MAAITO) partnered with Agrochemicals Association of Kenya, Fertilizer Association of Kenya and the Seed Traders Association of Kenya to hold a series stakeholder sensitization and Farmers open days in the country.

The events that started in Kitale town on the 23rd Feb 2021 with stakeholders' sensitization forum at the Kitale Golf Club and farmer Open Day & Exhibition at the ASK Show ground on 24th February 2021. The Uasin Gishu county stakeholders' sensitization forum were held at the Sirikwa Hotel on the 25th February 2021 and followed by farmer open days & exhibitions on 25th and 26 at the Rift Valley Technical Training Institute Grounds, Eldoret.

The theme of the events "Enhancing Food Security by Combating Counterfeiting & Related Forms of Illicit Trade in the Agricultural Sector" went well with the government commitment to grow the Agriculture sector and improve food security in the country.

The open days offered a unique opportunity to participants by bringing together leading agro-inputs companies that deal with seeds, fertilizer, pesticides to network with farmers and government agencies. Speaking at the outset of the events, the Anti-Counterfeit Authority Manager for Public Awareness Mrs. Agnes Karingu said; "The free-to-attend exhibitions are tailored to make farmers gain take-home knowledge and gain skills and knowledge on how to identify counterfeit products".



The CEO of AAK, Eric Kimunguni, speaks to the audience during the Stakeholder Sensitization and Farmer's Open Day.

ENFORCEMENT

Counterfeit 3M Co. N95 Face Masks worth Kshs 21 Million Seized in a Leading Hospital in Nairobi

November 6th 2020

ACA announces on-going crackdown to stop counterfeit facemasks from reaching first responders and hospital workers.

Anti-Counterfeit Authority Inspectors have seized approximately 20,000 counterfeit face masks bearing the 3M Co. logo of a retail value of KSH 21 million. The raid at a leading hospital in Nairobi followed a tip-off by hospital officials about a suspicious supply by a company named John Gray Ltd.

Hospital officials said the consignment was delivered to the hospital earlier this month and failed internal and quality and standard tests at the facility. The goods made in China marked one of the biggest single seizures of personal protective equipment since COVID 19 pandemic began.

The Manager Enforcement Department at the Anti-Counterfeit Authority Mr. Lindsay Kipkemoi, who spearheaded the investigation, urged hospitals and medical facilities in the country to report suspected counterfeit supplies to the Authority.

“We are living in unprecedented times of COVID 19 pandemic with thousands of Kenyans dead and affected from Covid-19. It is not only criminal to sell counterfeit personal protective equipment but morally evil to take advantage of this situation. We urge all Hospitals and medical facilities to report suspect supplies to ACA,” Mr. Kipkemoi said.

Mr. Kipkemoi added that the products pose health and safety risks to first-line responders and to consumers since they provide a false sense of security to users. 3M Co. is a manufacturer of N95 masks, which have emerged as critical protection tools for front-line healthcare workers. A 3M Agent thanked the Anti-Counterfeit Authority for the continued war against counterfeit goods in the country. The Agent said grammatical errors or typos on packaging or user instructions are telltale signs of counterfeit items.

The goods were seized and taken to the Anti-Counterfeit Depot pending further investigation to have the owner/s of the Company identified and charged. Under the Anti-Counterfeit Act 2008, it is an offence to trade in counterfeit goods. If convicted, the suspect faces up to 5 years in prison or a fine of a minimum of 3 times the value of the original goods.



Boxes of the counterfeit masks that were seized.

Counterfeit Alcoholic Beverage Products Seized in Turkana County

April 27th 2021, Lodwar

A multi-agency operation comprising of ACA, DCI, KRA, and KEBS officers confiscated 3013 boxes of suspected counterfeit alcoholic beverages of known Kenyan brand worth Kshs 10M in Lodwar in Turkana County. The products were seized from two business entities known as leading conduits and distributors of counterfeit products in the region. The goods were seized in the distributors who are alleged to get supplies from Nairobi before getting to the retail market.



Counterfeit alcoholic beverages seized and transported to ACA storage for destruction

Two suspects were arrested and booked at Lodwar police station and will be arraigned in court upon full investigations. The seized counterfeit products were taken to the Eldoret Counterfeit Depot awaiting appropriate investigations including sample testing to establish their contents.

The Anti-Counterfeit Authority Rift Valley regional head Ms. Elina Mnari said, "this is a breakthrough operation to cut the supply chain of counterfeit alcoholic beverages in the region". We will expand our operations to all regions across the country.

The multi-agency operation follows government efforts in response to the threat of illicit trade on the economy. The government has put in place a raft of measures aimed at taming counterfeit and other forms of illicit trade including the Presidential Directive that required coordinated efforts of different Government Agencies. The directive led to the formation of the Inter-Agency Anti-Illicit Trade Executive Forum and Technical Working Group (Multi-Agency Team for combating illicit trade) was established through Gazette Notice No.7270 in 2018. The aim was to strengthen interventions towards curbing illicit trade and to facilitate the rapid exchange of information between Agencies and enhance the speed of enforcement.

Raid on Helix geometrical set

ACA inspectors have seized 20800 pcs of geometrical sets at Mombasa port CFS worth Kshs 5.2 Million. This seizure occurred early May after meticulous investigation by the ACA coast inspectors. Yusuf Osman, coast investigator stated that the success of this raid was only possible after thorough and long investigation by ACA enforcement group.

Mr. Osman added that government agencies are on high alert to dismantle this type of activity saying, "there is a huge amount of work going on behind the scenes to crack down on those using the Kenya ports in Mombasa to bring in counterfeit goods in the country". Investigations are on to identify the owner of the consignment, who will be arraigned and prosecuted appropriately. Polucon group, the agents of Oxford Helix, applauded the efforts of the ACA Kenya for the marvelous work done.

Oxford Agent said the enforcement action protects the integrity of the product since consumers buy from trusted brands but these products have wrong calibra-

tions & fading colors. "Oxford has built consumer loyalty with quality products but not cheap substandard products".



Counterfeit Oxford sets seized at Mombasa Port.

Counterfeit Goods Worth Ksh 100 million Destroyed in Mombasa

November 9th 2020, Mombasa

The Anti-Counterfeit Authority in its unrelenting enforcement efforts have again destroyed counterfeit goods worth Kshs 100 million at the Saimbot Destruction site in Changamwe, Mombasa County. The event was witnessed by anti-illicit multi-agency enforcement teams comprising government agencies and intellectual property owners as well as the media.

Speaking during the exercise, the Chairperson of Anti-Counterfeit Authority, Florah Mutahi said among the counterfeits destroyed included goods meant for the fight against Covid-19 pandemic, valued at Kshs. 25 million confiscated from unscrupulous traders.

Speaking further, Mutahi emphasized the fact that the Authority would not tolerate the sale of counterfeit products which she said posed a lot of danger to the health and safety of people. She called on all Kenyans to endeavor to report suspected cases of counterfeit products so that appropriate actions would be taken by government agencies.

She observed that the destruction exercise was a public event to send a strong warning of zero tolerance to perpetrators of counterfeits and illicit trader.

"We are here to make sure the goods that have been condemned as counterfeits are destroyed in an envi-

ronmentally safe destruction unit, where they destroy all counterfeits following all the environmental regulations to make sure Kenya remains counterfeits free," said Mutahi.

The Chair said manufacturing which is one of the Big Four agendas is supposed to contribute 15 percent of the country's GDP, noting the unfortunate trend would make it impossible to achieve this government agenda. She added that the government is serious about manufacturing, thus the push to have zero tolerance to counterfeits to discourage the illegal trade and to ensure it doesn't happen. Mutahi said that ACA wants to send the right message out there that Kenya has both legal and institutional frameworks to fight counterfeits and hence a conducive investment environment.

The destruction comes after the recent launch of the first National Baseline Survey on Counterfeiting and other forms of Illicit Trade in Kenya. From the statistics of the survey, the national total size of illicit trade in 2018 was estimated at KES 826 billion and rose by 14% from KES 726 billion recorded in 2017. The significance of this level of illicit trade is illustrated by its share in GDP, which in 2017 and 2018 was 8.9% and 9.3% respectively. This is slightly higher than the contribution of the manufacturing sector in the GDP which in 2018 was at 7.7%.



Madam Chair Flora Mutahi leads destruction of counterfeits in Mombasa.

“With increased investment, Kenya will definitely have a more vibrant and strongly growing economy, employment, and development. We also want to send a stern warning to counterfeiters to cease and desist from trade in counterfeit,” she added

Also present at the exercise was the Coast Regional Commissioner, John Elungata, who was optimistic about ACA and the multi-agency efforts in the war against counterfeit goods. He praised efforts by the multi-agency and security agencies in the coast region for their commitment towards eliminating the importation of counterfeits through the borders and the ports.

“Kenya should not be the home of the people who steal other people’s intellectual property, giving the country a bad name and destroying the economy of the producing countries as well as our own economy,” he lamented.

He said the multi-agency coordinated by Deputy Head of Public Service Wanyama Musiambo, who was appointed by President Uhuru Kenyatta is geared towards eliminating all counterfeit goods and illicit trade in the country and no one would be spared irrespective of class in the society.



Madam Chair Flora Mutahi poses with the anti-illicit multi-agency enforcement teams present for the burning of the counterfeit goods.

Seizure of counterfeit fertilizer in Mombasa



Counterfeit Fertilizer in Yara bags siezed in Mombasa

Counterfeit fertilizers and empty Yara bags worth approximately 270,000 were seized at Sabasaba area near Mombasa following an intelligence lead provided to the ACA inspectors, Mombasa branch.

The confiscated goods were 90 bags each 50 Kgs of counterfeit fertilizer. The alleged owner of the goods has been arrested and booked at Makupa police station and waits to be arraigned in court.

Coast region head inspector urged the public and mostly the resident of Mombasa County to be aware of counterfeiters and report on suspicion of any form of illicit trade. He also added, ‘Rising cases of packaging of fake fertilizer & seeds has led to decreased farmer productivity & agony while exposing the country to food insecurity’.

GUEST COLUMN

Fighting the Good Fight: Farmers urged to join the war against counterfeit agro-inputs



**Ms. Flora Mutahi,
Chairperson ACA Board of Directors**

Counterfeit Agro-Inputs a threat to farmer livelihoods, food security and sustainable agriculture over the years, the agricultural sector remains the undisputed backbone of the Kenyan economy generating a third of Kenya's GDP and accounting for 60% of the exports. The sector employs more than 40% of the total working population and accounting for about 70% of informal employment in the rural areas. But despite being the mainstay of the Kenyan economy, it has not been performing to its full potential due to a number of challenges.

The Counterfeit Agro-input threat

One of the emerging challenges is associated with increased sale of counterfeit agricultural inputs like seeds, fertilizer, pesticides and other agro-inputs. Genuine and quality seeds are important components in making any country achieve high agriculture productivity and overall food security. In recent years, there has been an increase in reported cases at the Anti-Counterfeit Authority majorly targeting the 'grain-basket' counties of this country. The cases involve counterfeit seeds and fertilizers, fraudulent labelling, regulatory offences, trademark infringements and thefts of proprietary materials like labels and packaging materials.

Counterfeits products are posing a serious and growing challenge to farmers as they bear financial losses of lower crop yields, counterfeit agrochemicals and fertilizers pose potential harm to their land contaminating soils and damaging the environment.

Recent studies

While the government has put up measures in the war against trade in counterfeits, these products are increasingly still finding their way into the market. Statistics from the Agrochemicals Association of Kenya (AAK) shows that the country is losing at least Sh120 billion in revenue to unregistered

agro-chemicals dealers who often sell counterfeit pesticides. This counterfeit market accounts for 15 to 20 per cent of agrochemicals being distributed in the country, posing a threat to farmers and the environment.

Further, recent research findings by the Anti-Counterfeit Authority on the national baseline surveys on counterfeiting and other forms of illicit trade revealed that the level of public awareness on matters of illicit trade stood at 64.14% with that of counterfeiting at 66.42% as at 2019.

Addressing the demand side

Despite the high awareness level, the reason as to why people continue to buy counterfeit goods knowingly poses a big puzzle to policy makers and implementers.

It is therefore important to address the demand side of counterfeiting by sensitizing farmers and retailers on the risk of counterfeiting and how to verify genuine products. It is unfortunate that farmers are increasingly using hybrid seeds and fertilizers and at the same, they have become a prime target for counterfeiters especially for known trademarks. Some reasons attributed to this are low literacy levels coupled with low brand awareness levels making them purchase 'pass-offs' and look-alikes of their popular brands.

Farmers and retailers must be educated to buy from trustworthy sources and never buy from the "black market" (e.g. from an alternative supply-chain or any unauthorized outlets). They should also insist for a correct and complete invoice, including the name of the product(s) and/or quantity purchased.

Way forward

From our experience in the multi-agency collaboration, we have learned that tackling the issue of counterfeits requires a nuanced and comprehensive approach involving all stakeholders. Other than farmer these targeted exposures, we have looped in the private sector in this war. The owners of the intellectual property (IP) rights (such as the trademarks, industrial designs, etc) play a great role in product authentication, IP protection and enforcement. Any initiative to inform citizens about the importance of IP rights protection including securing supply chains against counterfeit must involve the intellectual property rights owners. We have had notable collaboration with industry players like Kenya Association of Manufacturers and the Agro-Chemical Association of Kenya in creating public awareness as well as supporting enforcement.

The way forward is to not only to increase engagement with farmers, but run parallel programs with county governments, seed producers and processors, traders and distributors to counter illegal trade in agro-inputs. ACA will continue to strengthen advocacy with all relevant stakeholders, including government ministries, agencies, judicial systems and international organizations, to improve legal systems and enforcement conditions, capacity and capabilities.

It is the right time for farmers to join the good fight for their own benefit.