

FIGHTING CRIMES AGAINST SOCIETY





Counterfeiting and piracy operations are more than a crime against the owners of intellectual property—the whole of society suffers as a result, says Olavo Sant’Anna.

The cascade of events that led to the seizure of thousands of dollars’ worth of products, and the exposure and elimination of an illegal ring of counterfeiters who sold bogus goods to federal agencies, began simply enough. A Brazilian bureaucrat grew suspicious about some of the electronic equipment his agency had purchased through a bid. Something didn’t seem right.

It wasn’t. After close examination, nearly 100 pieces of the equipment the agency had acquired turned out to be counterfeit. Months of investigative digging by PAICA agents ensued. Despite a few risky encounters and one aborted sale of hundreds of fraudulent products, the police and prosecutors, armed with three search warrants, raided a production plant and two homes in Puerto Alegre, resulting in the seizure of thousands of illegal products and packaging.

Brazil is an economic and commercial powerhouse. The country has steadily advanced in recent years to become one of the world’s strongest emerging markets and the third most popular investment destination. The market provides access to a growing number of multinational companies that understand how sales of product in the globe’s fifth-largest country can rally their bottom lines.

But that proliferation of opportunity also has opened the door to pirates who seek to divert merchandise from supply chains or look to cash in through the sale of counterfeit goods, which are often obtained outside of Brazil, especially from distant countries such as China. For example, with advances in technology, hundreds of Chinese enterprises are churning out and exporting cheap, knock-off cell phones, which attract huge consumer interest in Brazil and elsewhere.

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Organised crime and even international terrorist groups, which proliferate in the no-man's land of the notorious tri-border area linking Brazil with Paraguay and Argentina, often control these counterfeit operations. The tri-border area has also become a port of call for Islamic terrorist organisations, including, according to some intelligence agencies, al-Qaeda. US officials estimate that between \$10 billion and \$12 billion worth of counterfeit goods are channelled through that region each year.

Brazil also shares borders with eight other countries and has nearly 7,500 kilometres of coastline with 30 sea ports, contributing to the difficulty of limiting counterfeit products.

A study by the Brazil-US Business Council found that more than \$1.6 billion in sales are lost each year because of counterfeiting and piracy. That contributes to the loss of nearly \$633 million in tax revenues, which could be used to create two million new jobs, according to the Brazilian Ministry of Justice.

Industry estimates show that Brazil could net \$500 million a year in lost cigarette tax revenue alone if piracy was reduced or eliminated.

Brazil joined Russia, India and China in the economic opportunity pool known as 'BRIC' after Goldman Sachs predicted that these countries' combined economies would exceed many other collective economies, including the original G6, by 2050. Foreign businesses are eager to invest in BRIC because of the large consumer bases and growing middle classes in these countries. In Brazil, for instance, extreme poverty has been cut in half in recent years.

Studies show that multinational companies can reach their investment goals in these countries within five years, and a KPMG analysis revealed that investors reached their goals faster in Brazil than in China or India. Some 75 percent of foreign companies increased their revenue and gained market share, while 72 percent achieved brand awareness in Brazil within that five-year period.

Especially appealing to business is the continued growth, and spending power, of Brazil's middle class, which is estimated to account for more than 35 percent of its 190 million people. Brazil's economy is growing at a rate of more than five percent per year.

In terms of potential and economics, Brazil stands head and shoulders above the Latin American countries that surround it. With the area's largest population base, it provides ready, but not always easy, market access to companies eager for expansion.

Avon up the Amazon

The country is huge and diverse, which is sometimes a challenge for brands. One example is the skyrocketing growth of the cosmetic industry in Brazil, which has turned the country into a battleground for beauty, inducing companies to up the ante in the methods they use to connect their products with customers.

Luiz Felipe Miranda, chief of Avon in Brazil, told Reuters that his company is "democratising" luxury. "In the Amazon, we use small boats and planes to deliver products," he said. "It can take six or seven days."

Such stories signify the depth and commitment businesses are willing to make in Brazil, but these companies must be aware that the purchase of pirated products also captures a large slice of commerce within the country.

A survey of 1,000 homes in 70 Brazilian cities revealed that 53 percent of those interviewed said they had purchased counterfeit DVDs in the past year. Other statistics indicate that as many as three out of every four Brazilians have spent money on knock-offs.

These sorts of activities lead to an imbalance within the country's economy that in turn hurts legitimate business, says Andre Franco Montoro Filho, the chief executive officer of the Brazilian Institute of Competition Ethics.

"The free market's operation is damaged, or even hindered by unethical behaviour that gives undue advantage to offenders," Filho says. "Besides the evident injustice to the ones that respect the law, those crimes can generate social and economical damages...if they are not firmly and efficiently fought against."

The government has taken notice and action. It established the Brazilian Industrial Property Act in 1997, and has developed sturdier customs law; created federal Special Operations Units; and entered a joint anti-counterfeit task force with Argentina, Bolivia, Chile, Paraguay and Uruguay.

Dubbed 'Operation Jupiter', the task force since 2005 has seized and destroyed millions in smuggled and counterfeit agrochemicals, medicines, including abortion-inducing pills, food, illegal drugs, cosmetics, toys manufactured from hospital waste, and electronics and electrical products.

The TransAtlantic Business Dialogue (TABD), a public-private group of US and European interests focused on a closer, more integrated transatlantic marketplace, including the enforcement of intellectual property rights, has been actively providing assistance in the tri-border area of Brazil to tackle these problems.

"There is increasing agreement that concerted co-operation between governments and the private sector is necessary to reduce the incidence of counterfeiting and piracy of intellectual property-protected goods," according to TABD. These crimes distort product markets and undermine commercial and consumer interests, the group said.

Piracy is a crime against society, not just the brand holder. It robs the country of tax revenue, investment, jobs and growth. Consumers buy counterfeit merchandise and don't realise that they are really robbing themselves, funding organised crime and often human rights abuses that occur in the production of these products.

Consumers must be educated and businesses must stay proactive and vigilant to blot out these threats.

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