

IN BRIEF

WINTER
2011

NEWS FROM GLOUCESTERSHIRE COUNTY COUNCIL TRADING STANDARDS SERVICE

tobacco smoked out

Over the past few months officers have made several large seizures of illegal tobacco in the county.

The operations have been based on investigation and surveillance. In early August an arrest was made and a large haul of fake cigarettes was seized in raids on two shops in Gloucester. In total more than 30,000 cigarettes and 40kg of hand rolling tobacco were seized. Later the same month more tobacco, with a retail value of over £75,500 and weighing 334kg, was seized from a lock up garage in Gloucester. In the latest operation tobacco and cigarettes worth over £11,000 retail value and £2,000 in cash were seized from a shop, vehicles and a house in Gloucester. The tobacco was hidden in a hollowed out television in the shop and in a locked box in one of the vans. Law abiding traders in the county have expressed their anger at the damage the unfair competition caused by this illegal trade is doing to their businesses. The action coincides with the launch of a new campaign in the South West, see below, which seeks to highlight the detrimental effect the trade in illegal



tobacco is having on our communities. It points out that the availability of cheap tobacco makes it easier for children to take up smoking, and some counterfeit tobacco has been found to contain floor sweepings and other matter making it even more harmful to health. The work also supports the government initiative 'Healthy lives, healthy people: a tobacco control plan for England' which commits the government to drive down the prevalence of smoking and to support comprehensive tobacco control in local areas.

encourages many adults to keep smoking when they otherwise couldn't afford to. This campaign will help keep illegal tobacco out by:

- Talking to smokers and people in local areas about the impact of illegal tobacco.
- Encouraging everybody in the community to report illegal tobacco trading.
- Working hard to get pledges of support from people all over the South West.

Eddie Coventry
Head of Trading Standards, said:
"These latest seizures follow a period of intense investigation work by Trading Standards officers.



"We are committed to tackling this illegal trade. It is taking trade away from legitimate law abiding businesses and we are grateful to consumers and local traders who have supplied valuable information."

Cllr Will Windsor-Clive, Cabinet Member with responsibility for Trading Standards, added:
"Congratulations to our Trading Standards Service for yet another effective investigation which will bring benefits to reputable businesses and consumers throughout the county. This is an excellent example of the service working to protect local businesses from unfair competition."

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**ILLEGAL
TOBACCO
KEEP IT OUT**

A new campaign in the South West aims to rid illegal tobacco from our communities.

The demand for cheap, illegal tobacco in the South West is huge. Far from being a victimless crime, illegal tobacco can be targeted at children and young people, and

The ADVICE SQUAD



More examples of complaints and enquiries resolved by our consumer advisers

Right name wrong person



An elderly resident was concerned to receive a letter addressed to her claiming a debt of £37. Although not a great amount she did not owe the debt and had never lived at the address given by the company. She wrote to tell them this but the company did not respond to her letter. Instead they wrote again advising of their intention to start legal action. Very concerned at the threat of action she complained to Consumer Direct who passed the complaint to us. John took up the complaint and was able to raise the problem with the trader's local Trading Standards service. They confirmed that the company had not done sufficient checks to make sure they were chasing the right person and changes were agreed to avoid similar problems in the future. The company also confirmed that no further letters would be sent to the consumer.

Companies use a variety of means to track down people who owe money, however they should not be pursuing someone unless they have reasonable grounds for believing they have the right person. Debt collectors are expected to comply with a code of practice on debt recovery.



Communication breakdown

Helen assisted a consumer with a used car problem. Within days of purchase the car developed an engine fault. The consumer spoke to the dealer who offered a contribution to the cost of the repair which the consumer thought wasn't enough. Helen suggested that the consumer should get a report to confirm whether the problem was wear and tear or a defect. The consumer did this but when the trader received the report his solicitor responded that the problem was not covered under the warranty so he would not accept liability. Helen advised the consumer to consider court action for the cost of repairs. The consumer started a claim but before the court date the trader made an amended offer which covered the repair cost.



The difficulty with used car complaints is whether the problem is normal wear and tear or an inherent defect. If a part has failed prematurely the trader is liable under the consumer's statutory rights to goods which are of satisfactory quality. A warranty cannot be used by the trader to limit his responsibility as it is given in addition to statutory rights.



Chinese torture

A consumer bought a new laptop from a trader through an online market site. The laptop did not work when it was delivered and the consumer contacted the trader to complain. The trader said he would send it back to his Chinese based supplier. Four months later and the consumer was still without his computer and the trader did not respond to his emails so he contacted us. Liz wrote to the trader and this time the trader responded. After a detailed discussion the trader agreed to supply a replacement laptop. The consumer later reported that this had arrived and his problem was resolved.

As the goods were defective at the time of delivery the consumer is entitled to reject the goods and claim a refund; he has not accepted the goods. A replacement or repair is also a reasonable remedy especially where the consumer has had some use of the goods before a fault has become apparent.





Debtor in prison

Stefan Michael Kotwica was sentenced to eight months in prison when he appeared at Weston-super-Mare Magistrates Court for non-payment of a proceeds of crime order. The defendant, 41, of Linden Road, Gloucester was one of four people who pleaded guilty and were sentenced in April last year for conspiring to sell counterfeit goods from their shop, Leisure Sports, in Gloucester. Mr Kotwica was ordered to pay £17,500 under a proceeds of crime order. He has not made any payments and on completion of the current sentence the order will still be payable. Failure to pay could result in an additional prison sentence and this would not replace the debt owed.



SCAM ALERT

We continue to alert consumers and businesses to the various scams which come to our attention. Since the last issue of *InBrief* these include:

Computer virus scam

Consumers receive a telephone call warning that their computer is infected with a virus. Sometimes they ask for remote access to be allowed, exposing them to the risk of sensitive material being stolen including online banking details. In other cases they ask for a fee.

White lining

Schools, churches, doctors and dental surgeries have reported contact by traders offering to paint car park markings and posing as highway officials. The work carried out turns out to be shoddy and overpriced.



Publishing scams

Businesses are targeted by a telesales representative inviting them to take out advertising in a magazine being produced for the fire service or police. The truth is that while the publication may refer to the police or fire service it is not being produced in co-operation with, or with the backing of, any of the emergency services.

Hotel payment error warning

Emails state that a particular hotel has made an error and taken money from the consumer's account. The email has an attachment which the consumer is asked to open and complete with personal bank account details to claim a refund.

Back to Iraq

Enterprise Act

As well as taking action in the criminal courts Trading Standards authorities have powers to seek court orders under the Enterprise Act against businesses which breach certain consumer protection laws. If a trader fails to comply with a court order he will be in contempt of court and may be liable to imprisonment.

In November, Farman Haiday, the proprietor of General Stores, Station Road, Gloucester appeared at Gloucester County Court which imposed an order instructing him that he should not sell illegal tobacco.

The court heard that Trading Standards officers had confirmed sales of illegal tobacco over a period of five months and had on a number of occasions seized illegal tobacco from the shop.

Mr Haiday admitted that he had been advised that he should not sell illegal tobacco but had continued to do so. He stated that he was selling his shop to return to Iraq.



Undertakings

Before taking court action under the Enterprise Act traders can be invited to respond to the allegations against them, and they will be able to give binding commitments (undertakings) instead of going to court. During the last quarter:

- We obtained a signed undertaking from a local car parts dealer who was regularly failing to deliver goods which customers had paid for.
- We have also agreed action to reduce complaints against a local used car dealer. The trader was routinely denying consumers their legal rights.
- We obtained an undertaking from a trader who had taken deposits for repair work to cars but had not completed any work for consumers. We have not received complaints since.
- We obtained an undertaking from a tailor who had a number of complaints where he had failed to provide goods which had been ordered and paid for.



DANGER comes to LIGHT

With the festive season approaching we have again been warning people about the dangers of buying electrical goods online.

This was after being contacted by a concerned engineer who had been asked to provide a safety certificate for some decorative lights to be used at a party venue. The lights were purchased on eBay and the listing confirmed that they were supplied direct from Hong Kong.

Although stamped with a CE mark, safety testing on the lights revealed a catalogue of problems. They were not fused so a failure could cause a fire. The control box panel could be easily removed exposing live electrical parts creating a risk of electrocution. The box was labelled as being suitable for outside use but was not adequately sealed and could allow water in to the controls.

Electrical goods from outside the EU are not required to comply with EU safety requirements.

Earlier this year we received a complaint about a personal sauna purchased online by a Gloucestershire resident. The wiring had failed while in use and as a result the consumer suffered a burn. Although the seller had a co.uk website address the sauna was delivered from China.

This poses a problem for Trading Standards Services. Only if items are purchased in the UK or Europe are we able to take action against the producers or sellers and remove them from the market, if necessary.

Last year, with funding from the Electrical Safety Council, we checked the safety of electrical items purchased online and supplied from China. None of the 25 appliances passed the tests applied, and while some were minor failures due to labelling and markings, 22 of the 25 failed on issues that could be serious and were considered unsafe. The items tested included hairdryers and hair straighteners, some aimed specifically at children, as well as mains adaptors for games consoles and laptop chargers.



KNOW YOUR RIGHTS



A new campaign launched by the Office of Fair Trading aims to warn people about problems they may encounter when buying a used car. Used cars continue to top the number of complaints to the OFT, with more than 56,000 being received in the last year.

We are supporting this campaign locally by visiting used car traders in the county to ensure that they understand and are complying with consumer law requirements. The campaign includes a short online film, which can be accessed by going to our website and following the quick link on the home page.

Last gasp for cigarette machines

New rules which came into place on 1st October will mean the end of tobacco vending machines. It will be illegal to sell from them.

Premises that currently have a vending machine will still be able to sell tobacco but the sale will have to be made by a member of staff rather than a machine. This is to ensure that the seller is able to determine that the customer is aged 18 or over.

These machines in pubs, hotels and clubs are sometimes put in quiet places away from bars and other staff supervised areas. This can mean they are more readily accessible to young people, who are not then challenged.

Any premises where tobacco machines are still in operation after 1st October will be committing an offence. The person who controls or manages the premises where the machine is located can face a fine of up to £2500.

