

Written evidence submitted by the National Crime Agency

Letter from Keith Bristow QPM, Director General, National Crime Agency,
to the Chair of the Committee, 2 October 2015

Thank you for your letter of 17 September relating to psychoactive substances and the internet, and for outlining the information the Committee requires for its report.

Your letter did not arrive with my office until 24 September and so I am grateful to you for agreeing to an extension of your original deadline for reply.

1. Data the NCA has available on the number of websites selling psychoactive substances, both on the clear net and the dark net.

1.1 Identifying the number of websites selling or advertising psychoactive substances (NPS) at any one time is challenging. As with the online sale of any commodity, the number of such websites constantly fluctuates.

1.2 In 2014, the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) provided an estimate of the average number of sites on the Clearnet¹ supplying NPS, identifying 651 suppliers operating within the EU in the previous year. Since the start of this year, the NCA has identified in excess of 80 websites based in the UK involved in the supply of NPS, the vast majority of which are selling or advertising non-controlled substances. In both instances it must be borne in mind that individual traders may be operating more than one website, and a number of sites may be 'rip-off' sites where the goods advertised may either not be supplied, or may in fact not be NPS as described.

1.3 The situation on the Darknet is distinct from that on the Clearnet, insofar as vendors of NPS do not own domains, but instead place adverts on marketplace platforms. A dip sample shows that NPS are being advertised on all of the major Darknet marketplaces, however the number of adverts fluctuates and varies from platform to platform. It is possible that individual vendors may offer NPS on several marketplaces at the same time.

2. Data on the number of websites that have been closed

2.1 Over the last five years, activity by the NCA and its pre-cursor agencies led to the removal of in excess of 100 websites offering 'controlled NPS' for sale from the Clearnet under the Misuse of Drugs Act. These include websites offering Mephedrone or Naphyrone which are Class B controlled drugs. Operators of such sites often control more than one domain, and may move from one to another in the event that one site is suspended.

2.2 In 2014, targeted activity by the NCA and a number of international partners resulted in seven marketplaces being removed from the Darknet. These marketplaces hosted advertisements for NPS among a number of other commodities, primarily controlled drugs.

3. Your website states "the marketing and sale [of NPS] continues to take place

¹ The NCA understands the term 'Clearnet' to refer to the unencrypted, or non-darknet, non-Tor internet.

on the internet presenting challenges for law enforcement to control their sale and distribution.” It would be helpful if you could provide the Committee with more information about this.

3.1 As the Committee is aware, the Misuse of Drugs Act does not apply to uncontrolled NPS which continues to limit the ability of law enforcement to control their sale and distribution. Furthermore, without specific legislation in respect of NPS sales, it is difficult for law enforcement to close websites selling uncontrolled substances advertised for apparently legitimate purposes, such as those advertised as research chemicals.

3.2 There are also challenges relating specifically to tackling the sale and distribution of NPS over the internet. Technology, and the internet in particular, has created a range of new opportunities for criminals. The ready availability of criminal products and services on the internet, especially on the hidden internet, has produced a marketplace where criminals can operate with a high degree of anonymity. Online vendors of NPS often use privacy services when registering their website domain name to conceal their identity and location from law enforcement. Websites advertising NPS are also often registered in overseas jurisdictions which can further limit the ability of UK law enforcement to remove them.

3.3 This and other areas of cyber-enabled crime present law enforcement with increasing challenges, requiring new investigative and evidential skills and capabilities. The NCA is continually working to develop its niche capabilities, and whilst significant challenges remain, the NCA and its partners can, and will, use these capabilities to police the internet to tackle the greatest threats from serious and organised crime.

4. Your view as to what challenges a blanket ban on psychoactive substances presents to the NCA, and what estimate you have made of the displacement of sales from ‘head shops’ to the internet.

4.1 It is difficult for the NCA to speculate on the challenges inherent in a blanket ban. The role of high-street ‘head shops’ in supplying psychoactive substances is not typically a serious and organised crime issue, and the NCA has not made an estimate of the displacement of sales from such shops to the internet.

4.2 As I mentioned above, the NCA has identified displacement occurring on the internet, with the move from Clearnet to Darknet already having begun on a small scale. The NCA assesses this to be a move by those unscrupulous dealers currently selling psychoactive substances to claim a market share in the illicit marketplace prior to the introduction of new legislation in order to continue selling them in an ‘anonymous’ illegal manner.

4.3 The NCA has a number of capabilities that can be deployed flexibly against a range of threats. We will work within the legislative framework that Parliament provides to tackle serious and organised crime impacting on the UK, including the supply and distribution of psychoactive substances.

**Keith Bristow QPM, Director General,
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