

INDUSTRY ALERT

Manufacturing, Supply & Distribution



The Increasing Need For “Know Your Supplier” (KYS) Investigations

If your business operates using South East or South Asian manufacturers or supply chains you may be exposed to unethical and illegal practices from those suppliers which can significantly impact your reputation. FTI Consulting can offer a solution to help manage that risk, identify issues that do not accord with Australian safety standards and ensure mitigation against other counter-party risks such as corruption, bribery, fraud or money laundering in the supply chain.

BUILDING AND SAFETY RISKS

The collapse of a decrepit garment factory in Bangladesh which was making clothing bound for Western retail outlets and recent findings that airline products have been manufactured in harsh Chinese gaols are both international stories that have been highlighted as real concerns to Australian consumers. Recent reports allege that some very obvious red-flags involving building safety and workers’ conditions existed, and some basic due diligence and prudent on-site inspections may have alerted the clients that the factories presented substantial safety or ethical and reputational risks.



The need for companies to not only, consider safety checks but to “Know Your Supplier” (KYS) through investigations into the businesses, operating companies and importantly the people behind them, is crucial. (From left to right, images courtesy of: Alamy, Varming.dk, AFP/Getty)

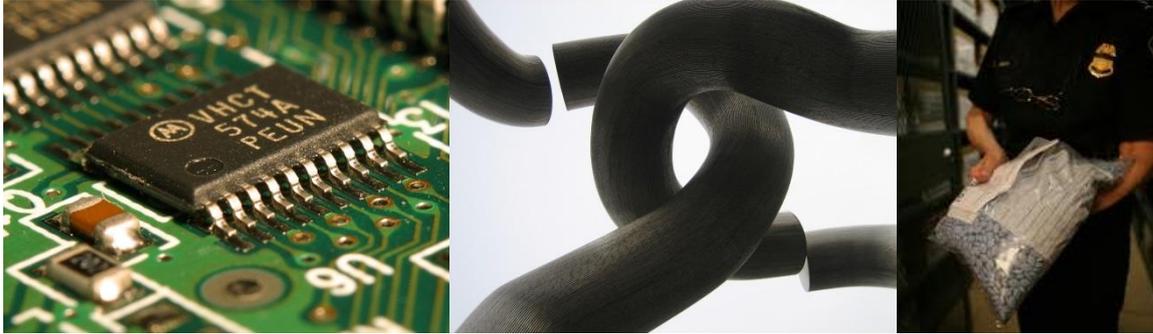
COUNTERPARTY RISK AND OPAQUE OWNERSHIP

Official records in many jurisdictions where budget garment, electronics and parts manufacturing operations exist are often opaque, and so understanding the ultimate ownership of what may appear to be a legitimate business is vital.

Whether deliberate or unwittingly, a real risk to businesses can occur should a contract be entered into with companies or people that continue to operate with safety breaches. This risk can be complicated when ownership and control is opaque, perhaps hiding links to managements’ past failings regarding safety issues, as well as possible links to corrupt officials, criminal or sanctioned organisations.

Business, trade and financial transactions with the latter may therefore trigger foreign bribery, fraud or money laundering suspicions. In addition to potentially facing prosecutions and product quality concerns, substantial damage to company brands, their image and value may also be incurred.

PRODUCT QUALITY AND QUESTIONABLE OR DUBIOUS ORIGINS OF MATERIALS



Counterfeit, poor quality or stolen raw materials and components are the weak link in any international supply chain. (From left to right, images courtesy of: Commons Wikimedia, Flickr, Commons Wikimedia)

The extent and potential vulnerability of not knowing agents, brokers and suppliers in a company's supply chain were examined in a United States Government study into 1,800 cases of suspect counterfeit parts that were identified over a two year period. The parts were found to be from more than 650 companies, each relying on their own network of sub-suppliers or brokers. Investigations revealed that parties in the supply chains did not know the ultimate source of many parts they had been tasked with supplying. Subsequent investigations went on to find that some contractors had not been screened and others were found to even have posted false photos of their facilities on their websites in order to make them appear legitimate. One supplier's address was found to actually be a United Parcel Service (UPS) store. Since that report, the U.S. now has brought into force the U.S. National Defense Authorisation Act 2012 which places civil and criminal liabilities on the managers of commercial supply chains should counterfeit parts end up in products sold to the U.S. government.¹

These new developments in liability underscore the importance of on-going supplier due diligence to know where raw materials, components and sub-assemblies originate and where they may ultimately get into your supply chain.

HOW FTI CONSULTING CAN HELP

Whilst Australian manufacturers and retailers ought to firmly have the issue of offshore building, factory & worker rights and safety issues on their radar, their actual capacity to undertake meaningful site visits and importantly, robust investigative due diligence may be quite limited. Company orders may subsequently be passed to a subsidiary sweat shop or dubious partner factories once the overseas buyer checks out of their hotel. As such, discrete site visits, examination of those involved in and behind supply chains via local investigations and interviews are key strategies to conducting "Know Your Supplier" investigations. Supplementary investigative due diligence can also be conducted where layers of sub-contracting, suspicious affiliations, questionable upstream supplier or other problems are identified.

FTI Consulting's Global Risk and Investigations Practice (GRIP) in Asia Pacific draws together professionals from government service, senior law enforcement, academia, forensic accounting and investigative journalism.

We provide:

- Specialist investigative due diligence and business intelligence, fraud and corporate investigations, data forensics and electronic evidence recovery;
- litigation support for complex multi-jurisdictional casework; and
- critical information, insight and timely solutions for informed decision making including navigational support for new market entry.

¹ USA Government INQUIRY INTO COUNTERFEIT ELECTRONIC PARTS IN THE DEPARTMENT OF DEFENSE SUPPLY CHAIN 2012: pgs 10-11 and 68.

The FTI Consulting global footprint has recently expanded to include a new office in India in addition to our existing offices and investigation staff throughout Australia, China, Japan and South East Asia. FTI Consulting can assist clients involved in the retail, garment or other manufacturing, supply and distribution industries that have disaggregated supply chains, to better understand their suppliers and the controlling parties behind them.

OUR APPROACH

FTI Consulting's "KYS" investigations can build upon or supplement existing factory safety checks and audits to identify hidden risks behind the actual business or corporate ownership structure, right through to more comprehensive supply chain investigative due diligence assignments where more complex factors may arise.

Our "KYS" checks often commence with obtaining and examining available:

- Business and corporate checks;
- Local regulatory, media, trade, journal and industry reporting in English and the relevant local language/s;
- Litigation and bankruptcy checks; and
- Global sanction and compliance list reviews in concert with reports from NGOs, community, environmental and worker safety/rights' organisations.

More extensive investigative due diligence assignments can be tailored to suit particular situations and where available may include:

- A report concerning current and historic ownership checks of particular factories or businesses;
- Checks and inquiries regarding a factory's past industrial relations and labour supply arrangements;
- Investigations concerning suppliers or sub-contractors and the origin of raw materials and sub-components; and
- Factual inquiries concerning potential breaches of contracts, local regulations, theft, fraud, money laundering, corruption or other business risks.

For more information on the services of FTI Consulting's Global Risks & Investigations practice, please contact:

SYDNEY

David Wildman

+61 2 9235 9316

david.wildman@fticonsulting.com

HONG KONG

Stuart Witchell

+852 3768 4587

stuart.witchell@fticonsulting.com

MUMBAI

Anuj Bugga

+91 22 6712 8571

anuj.bugga@fticonsulting.com