



Written Advisory Evidence from the Anti-Counterfeiting Group (ACG) on the Criminal Justice Bill 2023, for consideration by the Public Bill Committee (CJB21)

Phil Lewis, ACG Director General



Contents

- About ACG.....3
- Introduction3
- Clarifying remarks about this evidence submission4
- ACG Evidence Submission.....4
 - ACG Overview.....4
 - ACG Advisory Evidence6
 - ACG welcome Parliament’s Criminal Justice Bill7
 - ACG Suggestions.....8

About ACG

ACG is one of the world's premier trade organisations, dedicated to the fight against counterfeit products. For the past 40 years, ACG has been engaged in combating this insidious and menacing form of criminality, which has become a chosen path for organised crime networks across the world.

ACG currently represents around 3,000 international brands in 130 countries. We are uniquely set up as one of the few national anti-counterfeiting groups to have a Strategic Intelligence Management (SIM) function in place. This enables us to take a leading role, in facilitating intelligence-led actions against some of the UK's most notorious counterfeit markets and online traders.

The SIM role is to gather, collate, analyse, and package intelligence from our members and other sources. ACG then identifies strategic and tactical threats and harms. This enables us to support appropriate enforcement partners from Trading Standards, Border Force and Police.

Our intelligence-based approach also allows our members to provide tangible evidence to help raise public awareness and provide information, training, advice and research on a wide range of Government matters related to intellectual property, counterfeiting criminality, product safety and associated matters.

Moreover, we constantly work alongside numerous UK Government Departments, Agencies and enforcement related bodies. We are fully engaged with key All Party Parliamentary Groups and the UK National Consumer Federation, where we play a role on their enforcement group, which aims to prevent and tackle harm to consumers in a wider range of areas.

ACG widely supports and advises other prominent national and international organisations particularly UK Police, Border Force, Trading Standards, the National Consumer Federation, the OECD Task Force on Illicit Trade, the EU Observatory on Infringements of IP rights, the EU Customs Working Group, numerous EU Commission Directorates and the World Customs Organisation. In addition, we contribute to the Europol Intellectual Property Crime Unit (IC3), Interpol, the Royal United Service Institute (RUSI) and the United Nations Inter-Regional Crime Institute.

Introduction

The UK government has committed to protect victims of crime and their families by reforming the justice system so that criminals can be forced into taking the right path and are not trapped in a cycle of criminality.

The Government has adopted a long-term plan for justice with a Bill to amend criminal law to make provisions about criminal justice (including the powers and duties of the police), and dealing with offenders. Included are provisions about confiscation and the use of

monies and other provisions concerning the prevention and detection of crime and disorder, including provisions about the police and connected purposes.

In a range of other policies, the Government has emphasised its commitment to ensuring that consumers are better protected through the design and implementation of improved and more agile frameworks that can be used deal with to emerging challenges quickly.

Intellectual Property (IP) is a vital fuel for our economy. This has been clearly illustrated in numerous international reports, which have revealed that UK businesses using trademarks, to protect their knowledge-based assets, contribute 38% to our overall GDP and provide 22% of all jobs.

ACG supports the Government's conviction that it is essential that consumers are protected and wishes to re-emphasise the threat of transnational criminals counterfeiters that flood the UK market with unsafe products bought online and on the high street and in so doing, use the profits to fund other forms of organised transnational illicit trades in people, drugs, weapons and modern-day slavery.

However, in this submission the ACG seeks to provide evidence and raise awareness about a specific illogicality in the criminal justice system, which currently enables counterfeiting criminals, found guilty of their crimes, and when sentenced, to elude paying the costs of the transportation, storage, destruction and ethical recycling of seized counterfeit products, the costs of which then fall to the victims.

This Anti-Counterfeiting Group (ACG) submission provides evidence about the growth in the scope and scale of dangerous counterfeit products for sale in the UK and the fact that criminals are able to retain funding for other menacing forms of illicit trade.

Clarifying remarks about this evidence submission

We are happy for this response to be published.

ACG Evidence Submission

ACG Overview

In 2022 the Organisation for Economic Co-operation and Development (OECD) and the EU Intellectual Property Office (EUIPO) brought the global counterfeiting threat into clear context. Their updated figures on the scope and scale of IP crime revealed that the world trade in fake goods is now worth \$464 billion (USD), representing 2.5% of world trade.

More than this, almost 7% of products imported into Europe are confirmed as being counterfeit. Their figures also highlighted that counterfeit goods represent 3% of all EU imports. According to a subsequent report by the OECD and the UK Intellectual Property

Office (IPO), the UK market, alone, is now worth £13.6 billion ¹. and the total value of lost sales from products smuggled into the UK is £9.2 bn.

NOTE: It should be noted that at the time of writing UK has not produced comparable data, since leaving the EU. However, the UK is the 8th most targeted European markets for fake goods therefore it is reasonable to assume that the impact is as high if not higher than the European average.

From these studies we clearly see that criminal counterfeiting has changed considerably in the past 20 years, when it was 1% of the size it is today. In previous times, counterfeiters concentrated on traditional and high-end consumer fakes such as watches, perfumes, leather goods, fashionwear, apparel, and sports goods. These are still heavily copied items in the world of fakes, and many can be extremely dangerous because of toxins applied in production and the use of flammable materials.

However, these articles have been joined by much more threatening products, such as machines, electrical appliances, household cleaning products, chemicals, auto parts, toys, pharmaceuticals, cosmetics, alcohol, foodstuffs, beverages and even plant pesticides.

UK families are clearly in more danger nowadays. This is illustrated by the fact that European customs data reveals that around 30% of fake articles detained at the borders were highlighted as being potentially dangerous to the health and safety of consumers.

We need no clearer message about the morals and conscience of counterfeiters, than during the COVID 19 Pandemic, when consumers were looking to avoid the threat of contracting the disease and their behaviour changes accelerated the shift from physical retail buying to e-commerce.

Reports by Statista² on online shopping behaviours confirmed that during the pandemic, a significant number of consumers in the United Kingdom (UK) reported changes in their online shopping activities. In March 2020, about 40 percent of UK shoppers said they had shopped more online, than before the pandemic. By February 2021, this percentage had grown to approximately 75 percent.

Most recent figures reveal that The United Kingdom (UK) has the most advanced e-commerce market in Europe. In 2023, the country is expected to have nearly 60 million ecommerce e users³.

Counterfeiters recognised this opportunity very quickly and adapted to the new opportunities that presented themselves, as consumers and businesses increasingly looked to online shopping options for a myriad of products including cosmetics, hygiene, foodstuffs beverages, pharmaceuticals, toys and household and electrical goods.

¹ <http://www.oecd.org/unitedkingdom/trade-in-counterfeit-goods-costs-uk-economy-billions-of-euros.htm>

² <https://www.statista.com/statistics/1230225/changes-in-online-buying-among-uk-consumers-since-covid-19/>

³ <https://www.statista.com/topics/2333/e-commerce-in-the-united-kingdom/>

Hiding behind sophisticated websites stores and using bogus trademarks, certificates and labels, counterfeiters infiltrated legitimate online markets, auction platforms and social media sites to trick people into buying products that could not only endanger their families, but also heighten wider threats to health and safety during the crisis.

A 2022 report by the OECD indicated that over 400,000 dangerous products were seized by global customs authorities and of these 91% arrived in small parcels by air, express courier and mail. More than 70% of these originated in China

These criminals are the same people that sell fake watches and sports shoes and then use the profits to fund other depraved forms of crime, such as child labour, and illicit trafficking of people, drugs and weapons.

But personal danger is just a part of the issue. Counterfeiting has brought a wider economic menace. Industries that rely on intellectual property (IP) rights to protect their goods, creations, designs and services generate around 28% of employment across Europe. In real terms this equates to 60 million jobs and when companies that service or are customers of the IP related companies are added, the total IP related employment is calculated to be 82 million people.

Furthermore, the taxes that these companies contribute, supports vital public services, such as hospitals, schools and public protection. The 2019 report by the OECD and the UKIPO highlighted that 86,000 jobs had been lost to counterfeiting and that 4 billion is lost to the exchange every year, including £3.1 bn in lost UK taxes.

In short, this money falls into the hands of parasitic counterfeiters, in the form of massive amounts of unaccountable cash, which results in extensive public danger and economic damage.

ACG Advisory Evidence

ACG is active in supporting UK enforcement, including police, Trading Standards and Border Force, against transnational counterfeiters at all levels. Our provision of actionable intelligence fosters operations and wider strategic threat assessments.

The UK has an international reputation for fostering joint public private sector operations against counterfeit criminality and our prevention and disruption work can result in the seizure of many thousands of fake items. A growing proportion are highly dangerous.

However, our enforcement authorities are unable to cover the costs of transportation, storage and environmentally safe destruction or recycling. As a result, the overall costs fall to the those impacted by the counterfeiting activity. In short, the victims cover this cost.

The impact of this is that the victims are often unable, or reluctant, to take on additional costly legal costs to ensure the guilty parties are made responsible for compensation.

Despite continually campaigning the Crown Prosecution Service in an attempt reduce costs by gaining approval to retain only samples of seized products, for court cases, as in other forms of crime such as narcotics, these endeavours have all been continually refused.

The result is that to date, in 2023, ACG members have already committed £988,000 to ensure seized products are legally transported, stored, destroyed or recycled in an environmentally friendly manner. The guilty criminals have paid nothing and are therefore able to use held funds for other forms of previously identified criminality.

There can be very few forms of crime where victims are expected to pay and escalate their losses.

Currently IP rights owners are suffering from a justice system that is failing to defend and protect those that have invested in creativity and invention in the UK. The current legislative landscape is placing extra burdens on our prized businesses due to an illogical situation, which is threatening their livelihoods and available finance for investment and future developments. Consequently, ACG believes that our well respected intellectual property protection regime, and world standing as a country that respects and protects innovation is being eroded.

ACG welcome Parliament's Criminal Justice Bill

ACG welcomes the attention to provisions regarding "Proceeds of crime and other property connected with criminal behaviour". However, ACG believes that there is an opportunity to extend this to removing costs of transporting, storing, destroying and recycling in an environmentally friendly manner from the responsibility of victims and placing this accountability on the guilty party.

ACG also welcomes the provisions which deal with enforcement measures as a response to the increasing enablement of online crime.

As indicted above most recent figures reveal that the UK has the most advanced e-commerce market in Europe. In 2023, the country is expected to have nearly 60 million ecommerce e users⁴.

Transnational, organised networks, of counterfeiters have recognised this as an opportunity to adapt to these new openings, as consumers and businesses have increasingly looked towards online shopping options for a myriad of products including cosmetics, hygiene, foodstuffs beverages, pharmaceuticals, toys and household and electrical goods. Many of which are increasingly dangerous.

⁴ <https://www.statista.com/topics/2333/e-commerce-in-the-united-kingdom/>

ACG notes that criminal counterfeiting should be included within the definitions to ensure UK business, consumers, the economy and our international reputation are more appropriately highlighted for protection and defence.

ACG Suggestions

ACG strongly encourages Parliament to remove the burden of costs for transporting, storing, destroying and recycling seized counterfeit goods, in an environmentally friendly manner, from the victims and place this responsibility on the guilty party.

Parliament is strongly encouraged to introduce an individual and exclusive, Intellectual Property Minister (Czar) to help bring available resources together to collaborate in combating this growing international threat.

Phil Lewis
Director General



The Anti-Counterfeiting Group
PO Box 578 | High Wycombe
Bucks | HP11 1YD | UK
T: +44(0)1494 449165
F: +44(0)1494 465052
www.a-cg.org | [disclaimer](#)

