

Antiquated EU regulation obstacle to effective fight against counterfeit and pirated products industry, revealed EESC hearing on 6 April

The counterfeit goods industry is detrimental to jobs and growth in Europe and deprives governments of billions in tax revenues and threatens health and security of EU workers and citizens. Nevertheless, imports of fake goods have even doubled worldwide within 10 years due to digital trade. Now it is high time for Europe's legal framework to also arrive in the 21st century. The European Commission and the Member States urgently need to adapt their legal frameworks and ensure the necessary controls and market surveillance. Consumers need to be better informed, which is even a specific fundamental consumer right codified in Article 169 TFEU. Both the private and the public sectors need to cooperate in the fight against product piracy.

This was the bottom line of yesterday's hearing on "The counterfeit and pirated products industry" to which the European Economic and Social Committee (EESC) invited prominent experts from the concerned industries, as well as business and workers' associations, relevant platforms and the European Commission (EC). "*The Commission failed to come up with a robust legal framework*", said Mr Pezzini, rapporteur of the ongoing EESC own-initiative opinion on the topic. He referred to his own experience and the never-ending struggle against counterfeiting in the Italian textile sector and high tech industry, saying that Europe cannot act further with the tools of the 20th century.

Everything can be faked. At the EESC hearing, representatives from some of the most affected industries were presented, including the leather, pharmaceutical, toy, construction and luxury sectors. These representatives reported on the challenges they have encountered in relation to counterfeiting and what they are already doing to tackle it.

Fake products cost Europeans a fortune, endangering jobs and growth

The OECD estimates the value of imported fake goods worldwide at USD 461 billion in 2013, the amount having doubled within 10 years (USD 200 billion in 2005); 5% of EU imports are fake products, amounting to EUR 85 billion. Fake clothing, footwear and accessories account for EUR 26.3 billion, which is 9.7% of the sector's turnover. The knock-on effects on supply industry revenues, however, raise this figure to approximately EUR 43.3 billion or **518 281 job losses**. Governments are deprived of around EUR 8.1 billion in tax revenues. Counterfeit handbags and luggage amount to EUR 1.6 billion or 12.7% of the sector's turnover. The leather industry is mainly based on SMEs, which do not have the capacity to tackle counterfeiting on their own. The sector has already forwarded several proposals for better regulation to the EC and, in particular, calls for as many barriers and hurdles to counterfeiting to be

implemented as possible. Furthermore, mandatory leather authenticity rules (like in the textile sector), national pre-92 labelling rules for all EU Member States, an EU regulation on the labelling of leather and leather products (which currently only exists for leather footwear) and the reversal of the burden of proof are urgently needed.

Fake products threaten Europeans' security and health

The illicit trade in the construction sector is multifaceted and includes non-conformity (misleading buyers on quality, technical performance, origin, etc.); abusive use of quality labels and market access (e.g. the EU "CE-marking"), falsified certificates of conformity and violations of intellectual property rights (IPR). False products can be found everywhere, often on the internet, at flash sells, in the big construction markets and particularly in free trade zones (e.g. in Ajman at the China Mall). The industry therefore calls for the absolute traceability of any product, as well as adequate controls, market surveillance and prosecution/sanctions.

A survey in France revealed that one sixth of businesses in the construction sector were already directly or indirectly affected by counterfeit products, with the roofing, plumbing and climate engineering sector the most affected (75%).

For a layperson, it is very difficult to distinguish between fake and genuine medical products. While enterprises have already started to tackle counterfeiting, this sector also struggles with the lack of regulation and the necessary tools enabling companies to better cooperate with authorities, for instance by reporting illegal websites. Moreover, in order to stop counterfeiters effectively, more experts and specialists are needed at custom points and by police and health authorities.

The toy industry, which has one of the most vulnerable clients, namely children, faces a loss of 12.3% of its sales to the counterfeit industry, equating to EUR 1.4 billion annually as it is also one of the most innovative industries. EUR 850 million of sales are lost in related sectors, resulting in 13 168 direct and indirect job losses. Governments' tax revenue losses are estimated at EUR 370 million.

Erosion of reputation – an invaluable loss

The French family enterprise Longchamps – with 3 000 staff members worldwide (1 800 in Europe) and an annual revenue of EUR 560 million – invests around 2.5 million or 0.5% of its annual turnover and has employed a special taskforce for the fight against counterfeiting. *"Despite these huge investments, we cannot solve the problem without the necessary legal framework"*, explained Director General Jean Cassegrin, whose grandfather founded the company in 1948. He asked the EESC for its support for modern EU legislation adapted to the internet age, stating that this should also aim to demand the accountability of intermediaries, such as digital enterprises (Alibaba, GAFA, EBay etc.), banks and credit card operators and the transport industry (DHL, UPS, etc.). Some of these companies, such as EBay and MasterCard, have already started voluntary programmes against counterfeiting.

Facebook is also usually cooperative. Through its legal department, Longchamps has managed to erase 472 Google pages and 2 835 Facebook accounts and has removed 8 626 advertisements in 2016 alone. For Longchamps and the other businesses affected, it is not only the monetary loss which is troublesome but also the fact that the fake industry has the potential to erase companies' good reputation and consumers' trust in platforms.

The findings of this hearing will feed in the above-mentioned EESC opinion which will be adopted later this spring. More on the hearing, as well as the presentations, are available on the [EESC webpage](#).