Written evidence submitted by the Anti-Counterfeiting Group (ACG) (DEB 50)

1. Introduction

The UK Anti-Counterfeiting Group (ACG), which represents over 3,000 international brands, wishes to bring to your attention it's members' concerns that, at present, the Digital Economy Bill fails to recognise the increasing and insidious dangers that counterfeiting brings to consumers and industry in the UK.

As you will be aware, the Bill seeks to implement a number of Government polices, including a new Electronic Communications Code and other communication measures aimed at introducing better controls and measures to protect citizens. These include those related to digital intellectual property. However, we believe that the current text would only partially protect UK consumers and business.

2. Overview

There can be little doubt that the Internet has changed the world forever. Not only does it allow people remarkable opportunities to meet, communicate and share information, it also allows businesses and consumers from all over the world to connect and to sell and buy products from the convenience of their offices and homes.

It has been estimated by Kantar Worldpanel[1], the market research group, that ecommerce will increase by 47% by 2016, when it will account for $53bn of global sales. Within this, it is calculated that online retail consumers spend on average twice as much as in-store shoppers, with British consumers spending the most – almost 5 times as much. This means that, on average, UK consumers are the most regular Internet shoppers in Europe.

Nowadays, virtually every conceivable type of product can be bought and sold through the Internet. However, we are not the only ones to recognise its value and potential and in this ever-expanding environment of opportunity, the sale of counterfeit goods has risen exponentially. Therefore, ACG's view is that one of the most perilous issues facing consumers is from the online sale and distribution of counterfeit goods via the Internet.

Counterfeiters are resourceful and they clearly find the Internet irresistible. They like the access it gives to suppliers, transporters, businesses buyers and consumers across the world and even more, they love the anonymity it offers. Operating behind sophisticated looking sales sites, they use fake trademarks, brands and emblems and bogus certification labels to entice customers into thinking they are buying genuine, safe, products.

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[1] https://www.ft.com/content/9cddc9e6-f491-11e3-bf6e-00144feabdc0

Unfortunately, the reality is quite different as the fakers end up shipping us nothing more than shoddy, sub standard and, increasingly, dangerous goods.

Therefore, our members are of the firm view that the current draft of the Digital Economy Bill fails to recognise this threat.

3. Evidence

The UK Government has estimated it loses £1.3 billion in unpaid tax from the sale of counterfeit goods and that figure is growing. In fact, over the last five years the value of trade in counterfeit goods worldwide has increased by more than 80%, topping half a trillion dollars a year.

EU Customs' authorities report that, over the past three years, almost 29 million, potentially, dangerous counterfeit products have been detained at EU borders. The UK was responsible for seizing over 28% of these goods, which equates to almost 3 million hazardous articles.

This year on year increase underlines a growing risk to more and more consumers who are deceived into buying hazardous fakes, such as electronic household appliances, batteries, cabling and toys.

EUROPOL´s IP Crime Unit[2] has confirmed this threat through operations that have detected a significant rise in wider range harmful fake products, including mobile phones & chargers, batteries and defective power tools.

Other international enforcement agencies have raised further concerns as a result of detections of counterfeit and substandard products procured by governments across the world, including parts intended for military use.

From these reports, it is now clear that dangerous counterfeits exist in many primary sectors and in legal supply chains throughout the world.

4. Fakes in the supply chain

Increasingly, organised counterfeiting networks are using more sophisticated methods to avoid the attention of enforcers and ensure deliveries, distribution and the sale of counterfeit goods across the world.

Large sea container shipments are the most prevalent mode of transport. However, in the past three years there has been an increasing volume of small postal packages, which are ordered on line and arrive by air. These are then delivered directly to consumers' homes. EU Customs report that postal and courier traffic, in the past three years, accounted for almost 2 million articles in 2015.

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[2] https://www.europol.europa.eu/latest_news/europol%E2%80%99s-intellectual-property-crime-unit-wins-2015-global-anti-counterfeiting-awards

Intricate rebranding, labeling, re-labeling and repackaging methods are used, to confuse enforcers and consumers, including fake documentation (*in transit and at points of sale*).

5. The scale of the problem

On 18th April 2016 the EU Intellectual property Office and the Organisation for Economic Cooperation and Development (EUIPO[3] and OECD[4]) published their much-awaited findings on the global impact of counterfeiting and piracy[5].

The study reveals that, in 2013, trade counterfeiting and pirated goods amounted to 2.5% of all world commerce. In financial terms this equates to USD $461 billion, which is equivalent to the GDP of Austria, or the combined GDP's of Ireland and the Czech Republic.

The report adds that electrical machinery; equipment and parts sector is now one of the top 15 industries likely to suffer from imports of counterfeits. It also suggests that counterfeits have infiltrated production processes.

These conclusions are backed up by reports from the World Customs Organisation and the US Customs and Border protection whose data clearly reveals that electrical machinery and equipment are now the most frequently counterfeited products.

The content in the table below is derived from figures in the latest EU customs report, provides an example of fake goods that clearly have the potential to endanger the health and safety of consumers.

The table also shows the estimated value of fake goods.

Items	**Number of items detained by customs**	**Estimated value (in Euros)**
Mobile phones	50,086	€ 12,174,309
Mobile phone including parts and technical accessories (power charges etc)	1,282,131	€ 24,053,380
Computer equipment	187,093	€ 3,462,735

[3] https://euipo.europa.eu/ohimportal/en/web/observatory/home

[4] http://www.oecd.org/

[5] https://euipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/Mapping_the_Economic_Impact_study/Mapping_the_Economic_Impact_en.pdf.

(hardware) including technical accessories and parts		
Other equipment including technical accessories and parts (household machines, shavers, hair straighteners etc.)	371,908	€ 2,909,934
Audio/video apparatus including technical accessories and parts	278,523	€ 14,689,947
Machines and tools	155,534	€ 4,159,427

6. Expert Views

Companies such as Hewlett Packard (HP) have confirmed that the potential threat to public health through electrocution and fire, as a result of dangerous fake products, is clearly growing. In addition, damage to computers and equipment used in the home and in vital services, such as air traffic control is a real concern.

HP cites China as the main point of production for counterfeit, computer related equipment and accessories, with countries in the Middle East being responsible for product assembly and completion. In brief, China ships labels and products separately and these then are put together in the Middle East ready for the EU market. As part of this, there is now an increasing trend towards counterfeit hardware and quality labels such as the CE and the BSI "kite mark" being applied to substandard products, before shipping to the point of sale. The use of such unauthorised quality marks on non-compliant products, which are being bought and used by unknowing consumers means that potentially flammable and toxic products are posing serious public safety issues in any building in which they are used.

From the USA, the Underwriter's Laboratory[6] states that the most commonly counterfeited products are now adaptors, which are again produced in China. This is based on information provided through a project with Chinese Customs.

Regarding the UK, UL believes that counterfeiters attacking the domestic market will copy anything, including fake fire protection devices, faulty cabling and batteries used in toys, which burn and explode.

BICSI[7] the worldwide association for cabling design and installation claims that serious problems exist in the communications cabling industry due to unknowing

[6] http://ul.com/offerings/manufacturers/anti-counterfeiting-operations/

purchases of fake cabling products, which do not comply with fire safety codes but are sold at a similar price to bona fide products.

The Semiconductor Industry[8] is also under attack and a SIA Taskforce, has been set up to prevent and stop the production, trade and distribution of counterfeit microchips used in everyday products including cars, computers, military and nuclear devices, and medical applications such as IV machines and defibrillators.

SIA claim that there have been numerous cases of major counterfeit supplies to government procurement departments during recent years.

7. Conclusion

Nowadays, counterfeits are almost visually identical to genuine products, and the price of a counterfeit can often be the same as a genuine product. The worrying problem, today, is that consumers appear to have little realisation that they are buying products that could maim or even kill.

Therefore, much more awareness work needs to be carried out and Government Bills, such as this, are essential vehicles.

As counterfeiting has innate links with serious organised crime across the globe, there is now an urgent need for the UK Government to properly recognise the threat at every opportunity.

Dangerous fakes pose a serious threat to public health and therefore, it is essential that proposed legislation, such as the Digital Economy Bill fully recognises the dangers that counterfeiting present to consumers and business alike.

ACG respectfully delivers this submission as added evidence and substantiation of the need to include counterfeiting within the Bill and hope that you will fully consider the content.

October 2016

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[7] https://www.bicsi.org/

[8] http://www.semiconductors.org/