



Recommendation 1673 (2004)¹

Counterfeiting: problems and solutions

Parliamentary Assembly

1. The Parliamentary Assembly notes with concern the rapidly rising incidence of counterfeit goods in Europe – a phenomenon which places customers' health and well-being at risk, erodes the markets for legitimate producers, damages the reputation of brand names, distorts competition, undermines employment and reduces tax income.
2. The image of counterfeiting as a harmless activity must be challenged. Council of Europe member states should improve data collection on the linkage between counterfeited goods and injuries or deaths, in particular as regards products such as pharmaceuticals, spare parts, toys, personal care products, household items, foodstuffs, alcoholic drinks and tobacco.
3. Policies for better surveillance, control and prevention of counterfeit-related risks to public health and well-being should be developed, as should communication with the public and industry. Special regulations are also needed to oversee the sale of medicines and other sensitive products over the Internet.
4. The Assembly welcomes the adoption in July 2003 by the European Union's Council of Ministers of a regulation aimed at protecting intellectual property rights against counterfeit and pirated goods entering the European Union and hopes that it can soon be supplemented by a proposed directive on the harmonisation of procedures within member states for combating counterfeiting and piracy of goods circulating in the European Union. The Assembly in this context welcomes the application of the new regulation within the enlarged European Union as from July 2004.
5. To make anti-counterfeit laws and measures more efficient, they should be harmonised as far as possible throughout the continent. While intellectual property rights must be protected, there could also be reason to use confiscated counterfeit goods for social and charitable purposes. The Assembly therefore supports the idea that further use could be made of certain counterfeit goods – such as clothing and shoes – in exceptional circumstances and under certain conditions guaranteeing their conformity with minimum quality and safety standards of a national or European origin, and only after any distinctive brand signs on the goods in question have been removed. These items could be given to orphanages and humanitarian organisations – wherever possible via the rightful owners of the imitated brands – instead of being systematically destroyed as is the current practice in many countries, in line with countries' moral obligation to assist their most vulnerable citizens, especially when the latter cannot otherwise be given adequate living conditions.
6. In conclusion, the Assembly recommends that the Committee of Ministers ask the member states of the Council of Europe:
 - 6.1. to further tighten national laws and measures against counterfeiting and to seek their harmonisation at European level as exemplified by European Union legislation;
 - 6.2. to entrust the competent authorities with the gathering of statistical data on the links between counterfeits and injuries or deaths among the public, in particular for the groups of products listed in paragraph 2 above;

1. Text adopted by the Standing Committee acting on behalf of the Assembly, on 7 September 2004 (see [Doc. 10069](#), report of the Committee on Economic Affairs and Development, rapporteur: Mr Schreiner).



- 6.3. to shape policies for better surveillance, control and prevention of public health risks associated with counterfeit goods;
- 6.4. to improve communication with consumers, alerting them to the risks posed by counterfeit goods and ways of identifying such goods;
- 6.5. to encourage industry to enhance information-sharing on counterfeit-related problems and to strengthen practical measures against counterfeiting, including consumer hotlines and improved data management systems;
- 6.6. to draw up special regulations to oversee the sale of medicines and other sensitive goods over the Internet;
- 6.7. to consider permitting the exceptional use of certain confiscated counterfeit goods for social purposes along the lines set out in paragraph 5 above;
- 6.8. to involve more actively local actors, inter-professional groups and consumer associations in national anti-counterfeiting efforts, in particular via information campaigns;
- 6.9. to ensure appropriate training of customs officials on the means and policies to detect counterfeit goods.

7. The Assembly in this context welcomes the work carried out within the Council of Europe by the Committee of Experts on Pharmaceutical Questions (under the Partial Agreement in the Social and Public Health Field), aiming to develop and implement effective measures to minimise public health risks posed by counterfeit medicines.

8. The Assembly also recommends that the Committee of Ministers invite the European Union to consider using certain seized counterfeit goods for social and charitable purposes in exceptional circumstances and under certain conditions, as outlined in paragraph 5 above, by making the necessary adaptations to existing or planned European Union legislation.