

EU Policy Position Paper – Accountability for Counterfeiters

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2 **Amazon is committed to driving counterfeits to zero. We know that this is a global challenge that requires enhanced**
3 **partnerships across industry and governments around the world. To better find and hold counterfeiters accountable,**
4 **Amazon supports ongoing collaborations and expanded partnerships to:**

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- 6 **1. Exchange information on counterfeit activity to help stop counterfeit products at the border**
- 7 **2. Share information about blocked counterfeiters to help the industry stop more counterfeiters earlier**
- 8 **3. Increase resources for law enforcement to prosecute counterfeiters and public awareness of the dangers**
9 **posed by counterfeits**

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11 We believe we have a responsibility to protect consumers, brands, and our store from counterfeits, and we work hard to
12 do that. In 2020, we invested more than \$700 million and dedicated more than 10,000 employees to stopping fraud and
13 abuse. We have built robust proactive controls to protect customers in our store from bad actors and their products
14 using a combination of advanced machine learning capabilities and expert human investigators. We have developed
15 powerful, industry-leading tools—including Brand Registry, Project Zero, and Transparency—for brands to partner with
16 us to ensure only authentic products are sold in our store. We have pioneered new methods of seller vetting, including
17 live-video sessions with prospective sellers to inspect their government-issued ID. Because of the significant resources
18 Amazon has invested in these efforts and the partnership we have received from brands, we have been able to provide
19 consumers with a trustworthy shopping experience where less than 0.01% of the products sold on Amazon last year
20 received a counterfeit complaint from a customer.

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22 While we are proud of the progress we have made, we know that counterfeiters will not stop trying to defraud
23 consumers, and that we will need to keep investing and innovating to stay ahead of them until we have driven
24 counterfeits to zero. Regardless of how well Amazon stops counterfeits in our store, we know that closer partnerships
25 with other businesses, law enforcement, and organisations around the world will continue to be necessary to address
26 this global challenge.

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28 In a recent analysis, the Organisation for Economic Cooperation and Development (OECD)¹ found that the volume of
29 international trade in counterfeit and pirated products amounted to as much as €402 billion (\$464 billion) in 2019 (or
30 2.5% of world trade). So, while the prevalence of counterfeits in the Amazon store may be statistically low, this issue
31 persists throughout the retail industry and across the globe. We believe that a single counterfeit is one too many, and
32 we are committed to helping industry and government do better on behalf of customers and constituents alike. Another
33 report by the European Commission² estimates that 438 million intellectual property-infringing products were detained
34 during 2013-2017. Both make it abundantly clear that the need for continued focus, collaboration, and investment to
35 combat counterfeits and the organised crime syndicates who traffic in them is as vital as ever, and requires a new and
36 enhanced level of cooperation across industry and government.

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38 Here are some of the partnerships we hope to strengthen together in our collective efforts to drive counterfeits to zero
39 and hold criminal actors accountable for their fakes:

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41 **1. Exchange information on counterfeit activity to help stop counterfeit products at the border**

- 42 • Amazon supports expanding customs agencies' authority and capability to share information with relevant
43 supply chain actors (like Amazon) when the agencies detain or seize shipments. Such efforts will create a force-
44 multiplying effect that will allow all parties to take greater action against counterfeits and provide more support
45 to law enforcement partners.

¹ OECD/EUIPO (2021), *Global Trade in Fakes: A Worrying Threat*, Illicit Trade, OECD Publishing, Paris, <https://doi.org/10.1787/74c81154-en>.

² European Commission, Taxation and Customs Union (2019), *Report on the EU Customs Enforcement of Intellectual Property Rights, Results at the Border, 2019*, Publications Office of the European Union, 2020, Luxembourg, https://ec.europa.eu/taxation_customs/system/files/2020-12/ipr_report_2020.5464_en_04.pdf.

- Amazon also supports all marketplaces and logistics providers sharing information on counterfeit activity with customs agencies to aid in their detection and seizure efforts and to strengthen law enforcement’s ability to dismantle the criminal networks behind these goods.

Amazon supports expanding governments’ authority to share pre-seizure, enforcement-related information with the private sector. While retailers actively work to stop counterfeiters and block them from selling in their stores, and customs authorities detain and seize shipments of counterfeit products in the event that some bad actors manage to evade the retailer's efforts, antiquated laws have precluded governments from collaborating at the level we all desire to drive counterfeits to zero and to hold criminals to account. Therefore, to strengthen our shared fight against counterfeits, Amazon supports partnerships and reforms that enable increased information sharing about suspected counterfeited products between customs authorities and rights holders, marketplaces and other retailers, and other intermediaries, including fulfilment networks and logistics providers, to combat counterfeiting. That is why we support the EU’s final and full implementation of the new advance cargo information system, also known as the Import Control System 2 (ICS2). These changes will strengthen our first line of defense against counterfeits, help law enforcement more effectively identify counterfeiters, and empower public and private entities alike to better protect consumers and innovators.

Additionally, we know that partnerships with customs agencies are essential for tackling counterfeits. Supply chains are complex and no single entity—public or private—has access to all of the information generated before or after them throughout the importation process. These complexities and a lack of transparency in the supply chain also create challenges for border authorities and law enforcement, reducing their counterfeit targeting efficiency. Amazon supports sharing certain data on counterfeit activity that can improve customs entities’ ability to identify illicit products and criminal networks at the border and help Amazon further protect customers and rights owners.

In 2020, Amazon launched the Counterfeit Crimes Unit (CCU), a global team dedicated to working through the court system and in partnership with law enforcement worldwide to pursue counterfeiters and hold them accountable to the fullest extent of the law. While reflecting on its one-year anniversary, the CCU looks forward to continuing to work with customs authorities to determine the data on counterfeiters that is most helpful to their investigations and driving seizures and enforcement actions for counterfeits. We believe that all marketplace and logistics service providers should be doing the same to better protect our borders.

When we responsibly share information across industry and government on counterfeit products, we can collate a more comprehensive set of intelligence to better identify the illicit goods before they reach the customer, enabling us to make even more progress toward ending counterfeiting. The European Commission’s planned Toolbox against counterfeiting is an important step, and we look forward to supporting efforts that facilitate the effective sharing of information on counterfeit goods between companies and government entities.

2. Share information about blocked counterfeiters to help the industry stop more counterfeiters earlier

- Amazon supports improved, voluntary information sharing among industry and between the public and private sectors on the techniques, procedures, paths, and networks used by criminals trafficking in counterfeits. We support this sharing to enable industry and law enforcement to better identify, stop, and take enforcement actions against international counterfeiting activity.

Governments and international organizations around the world have recognised the value that effective information sharing among law enforcement authorities and the private sector can have in the fight against counterfeiting. We agree. When we improve voluntary information sharing among industry and between the public and private sectors about the techniques, procedures, paths, and networks used by bad actors, we will all identify common targets and trends to combat cross-retailer, international counterfeiting activity. That is why Amazon supports the ambition of the European Commission’s EU IP Action Plan to establish an EU Toolbox against counterfeiting, which lays out principles for joint action, cooperation, and data sharing among right holders, intermediaries, and law enforcement authorities to strengthen our collective efforts in the fight against counterfeit goods.

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In the U.S., Amazon has worked with a small group of other online marketplaces to create a data exchange through a third-party vendor where we are sharing information about counterfeiters that we had blocked previously from our stores to understand the potential value of this data. The early results are encouraging—amongst the sample of confirmed counterfeiters that other stores shared with us, we found 16% matched accounts that had also tried to sell in our store. These are counterfeiters that other industry participants could have identified and stopped sooner if we had all shared data on blocked counterfeiters at the time of enforcement—ensuring that counterfeiter was stopped across the industry.

To realize the benefits that improved data exchanges can bring, Amazon will seek opportunities to responsibly expand upon the promising results of our information exchanges across geographies, with other companies, as well as with governments. We will seek to work with policymakers to explore how best to utilise existing authorities and best practices for public-private information sharing, and create new relationships to foster the flow of actionable data and information to combat the industry-wide and global challenge of counterfeiting.

- 3. Increase resources for law enforcement to prosecute counterfeiters and to raise public awareness of the dangers posed by counterfeits**
- Amazon supports enhanced resources from governments for law enforcement and customs authorities focused on organized crime trafficking in counterfeits—including funding for training and modernising counterfeit crimes investigations and prosecution units.
 - Amazon further supports campaigns to raise the public’s awareness around the danger counterfeit products can present.

Across its inaugural year in 2020, the CCU has reported all confirmed counterfeiters that we have blocked from our store to law enforcement authorities in the U.S., the UK, the EU, Canada, and China. For more than 250 counterfeiters, the CCU has taken the additional step of providing in-depth referrals and evidence to each counterfeiter’s national authorities. The CCU also filed civil litigation against 64 counterfeiters, and disrupted counterfeiters and their supply networks through civil suits (including discovery) and joint enforcement actions and seizures with law enforcement around the world, including against distributors, suppliers, logistics providers, and fake invoice providers. Since the beginning of 2020, the CCU has been proactively sharing a quarterly report of all confirmed counterfeiters with law enforcement authorities around the world. We’ve learned a lot in CCU’s first year about the world’s intricate counterfeit networks, and where we can affect change. While we continue to build strong global partnerships with law enforcement, and invest heavily in our tools and teams dedicated to fighting fraud and abuse, there are limits to what a single, private company can do in this fight.

Our work over the last year with the CCU has shown that not only is prosecution successful in deterring counterfeiters, it is also complex. Law enforcement has worked tirelessly to make progress and collaborate with us to have a very real impact for consumers. However, our partners in law enforcement need more resources to keep up with bad actors who conduct their criminal conduct without respect to borders and change tactics by the minute. The European Union member states have recently returned counterfeiting as a priority in their multidisciplinary platform against criminal threats (EMPACT). We fully support this reinstatement of fighting counterfeits on their priority list in the fight against organised crime over the next four-year policy cycle from 2022-2025 and applaud the European Union’s strengthened commitment to investigating counterfeiters and holding them accountable. Going forward, we embrace national governments’ efforts to translate this commitment locally—from increased training to modernising technology to additional resources—to ensure adequate resources are allocated to the fight against counterfeits and that prosecutions are further prioritised. This is necessary to put counterfeiters out of business and help to address other illicit activities that can be tied to the criminal enterprise and are potentially funded by counterfeiting activities.

Amazon also supports working with law enforcement and other key partners across industry and government to raise the public’s awareness around the danger counterfeit products pose and the criminal entities that may benefit

148 from such purchases. In the OECD reports referenced earlier, research identified that around 27% of people
149 knowingly buy counterfeit goods, believing that the low price justifies the low quality. However, they may not be
150 aware of the dangers that counterfeit goods can have and their impact on jobs and the economy. Campaigns around
151 enforcement successes, seasonal dangers, and the potential impact on small and medium sized businesses could
152 elevate awareness significantly.

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154 Like all criminals, counterfeiters thrive where it is hard to detect them and where enforcements are mild. Consumers
155 deserve to get the authentic products they purchased. When working together, the retail industry and government
156 bodies can stop counterfeiters and better protect consumers, rights owners, and store operators from these criminals.
157 We are making good progress in proactively protecting our store by continuing to 1) reduce the rate of counterfeit
158 complaints from customers, 2) increase the number of brands in Brand Registry, 3) use industry-leading anti-counterfeit
159 tools for brands, and 4) increase the number of criminal referrals and litigation. Also, after one year, Amazon's
160 Counterfeit Crimes Unit is just getting started. We look forward to building even stronger relationships with law
161 enforcement and other organizations around the world to responsibly share data and collaborate, so we can better
162 prevent counterfeits from entering our borders and being sold, while ensuring that counterfeiters are held accountable.
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