



POLITY

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The trade in counterfeit goods: What is it, why is it a problem and what is its impact on Africa?

A highly visible influx of counterfeit goods, of various types, is occurring across the African continent.(2) Most of these goods, including clothing, digital video discs (DVDs), compact discs (CDs), Play Station games, designer labels, computer software and pharmaceuticals, are sold across the continent.

It might seem harmless to buy a knock-off item; after all, the originals are out of reach for most who are longing for a real designer label. This is, however, only the visible side of the illicit trade in fake goods.

There is however, a more sinister side to this illegal industry, with counterfeiting being far more harmful than it appears. By purchasing such goods, one could, for example, be financing organised crime or even international terrorism. In fact, the global counterfeit or pirate products market is more lucrative than the global trade in illegal drugs. The Organisation for Economic Cooperation and Development (OECD) estimated that, in 2005, the global trade in fake or pirated goods was worth around US\$ 200 billion. This was a very conservative approximation, since it did not include pirated digital products or internal OECD counterfeit production and trade.(3) In 2007, the International Chamber of Trade's (ICT) estimation of the total global value of fake goods was more than US\$ 600 billion. This

represented between 5% and 7% of world trade.(4) This CAI brief aims to explore this lucrative, albeit illegal, industry a little further, examining the reality of counterfeiting and discussing its current and potential impact on the African continent?

What is counterfeiting and why is it a problem?

Counterfeiting is the unauthorised representation of a registered trademark carried on goods identical or similar to those goods for which the trademark is registered. The sole purpose is to deceive the purchaser into believing that he/she is buying the original product.(5) To many, a counterfeit 2010 FIFA World Cup shirt bought at a busy intersection might seem very innocent; after all, you are supporting a street hawker and his family. The fact is that counterfeit or pirated goods are more than above suspicion.

The increase in counterfeit goods in a market represents a major threat to business and is also a key barrier to trade. The distribution of cheap and poor quality pirated goods in a market creates an obstruction to the distribution of genuine products.(6) In addition, that shirt could have been used to smuggle illegal narcotics, weapons and even parts to build nuclear weapons,(7) and was in all likelihood produced in 'sweat shop' using child labour. Further, counterfeit transportation parts, including aircraft components, are dangerous since they are of a much lower quality than parts subject to the high standards imposed by legitimate industries.(8) Beyond this threat to public safety lies the fact that counterfeiters and the crime syndicates they work with are engaged in human trafficking, human organs, gang warfare and money laundering, to name but a few illicit activities.(9) Greed drives the trade and it can even control politics and the outcome of legitimate elections. It is booming and each time a buyer acquires a knock-off they are in contact with a world-wide criminal network. In addition, counterfeit products are distributed regionally and globally with the Internet facilitating the trade, making this a transnational problem, too.(10)

Fake pharmaceuticals are of concern for developing countries, since these are in some cases more affordable than real medicine. Tests on some counterfeit medicine revealed that they contain glue, wax, yellow highway paint made with lead and boric acid used commonly in the manufacturing of pesticides. The detection of fake medication in a supply chain can cause a break down in public confidence in health delivery systems.(11) What makes the trade in counterfeit medicine (12) so attractive to organised crime syndicates is the fact that there are huge profits in the illicit trade, but the punishment is less severe than for illegal drugs, such as heroin.(13)

According to the World Health Organisation (WHO) as many as one in four pharmaceutical drugs sold in the developing world are counterfeit. It is impossible to know the exact level, but the WHO agrees that it is 'unacceptably high.' Not one class of medication has been spared by counterfeiters, according to Interpol's counterfeit drug department.(14) It happens with both branded and generic products and even includes medical devices. What is also worrying is that it is difficult to detect fake substances (mass spectrometers fitted with 'ion guns' are needed) and that anyone anywhere in the world can be exposed to such medicines. In some countries this is rare, but in the developing world it is a daily reality.(15)

Impact on Africa

As the global trade in counterfeit goods is growing, Africa is increasingly being targeted as a market for counterfeit merchandise. Recently, a new trend has also emerged-Africa is being used as a transit route for fake goods, which poses an indirect threat to European and American markets, too.(16) Counterfeit products are not produced to any significant degree in Africa. These products are mostly imported from Asia, and particularly China. As such, Africa is fast becoming a dumping ground for knock-off goods. A very high percentage of counterfeit shipments from China are destined for Africa, either directly or via ports such as Karachi, Dubai or Hong Kong, in an effort to reroute the products so that their country of origin can be disguised.(17) A number of factors contribute to Africa's attractiveness in being a destination of choice for counterfeiters, including:

- the trade links between Africa and China, where most counterfeit goods originate from, are increasing;
- the continent's porous borders, while outdated legislation and weak enforcement mechanisms have helped to facilitate the illicit trade across Africa;
- the reality that governments across the continent do not share information regarding fake goods; and
- the reality that with modest resources at their disposal, many Africans do not consider the trafficking in counterfeits a serious crime, and would therefore not hesitate to acquire a knock-off product.

Due to these factors, the problem of fake goods is increasingly serious and the continent is fast becoming 'fair game' for counterfeiters (18) and it is hurting the continent's population and economy.

Counterfeit malaria drugs are of particular concern to authorities on the continent because of the scale of the disease. Malaria kills 2,000 children per day in Africa, and scientists fear that the intake of fake malaria medicine is aggravating an increasing problem of drug resistance. Counterfeit drugs are not just 'sugar pills.' Most fakes do contain an active ingredient, like the cheap and readily available paracetamol. Paracetamol temporarily "soothes some symptoms" of the disease but will in no way fight the parasite that causes malaria. It is also possible that fake drugs contain harmful chemicals that can cause death. Scientists have found traces of sildenafil (the main ingredient of Viagra) in malaria medication.(19)

It is not only malaria drugs that are counterfeited; tuberculosis and HIV & AIDS treatment have been reproduced using either toxic ingredients, inactive substances and useless preparations. Like other countries in Africa, fake pharmaceuticals are also a serious concern for South African authorities. According to the country's Medical Controls Council (MDC),

knock-off medicines make up between 2% and 10% of the market. In 2009, ten cases had been reported. The fact that these fakes are only identified when discovered makes the fight against them very difficult. Many knock-off products fall through 'the cracks' resulting in a lack of statistics,(20)-what cannot be measured is difficult to manage.

Counterfeiters undermine innovation, which is a vital ingredient of entrepreneurship and economic growth. More importantly, in a state where counterfeiting is rampant, a country quickly gains a reputation as a safe haven for criminals, with dire consequences to the reputation of the particular country. Since Africa is the most underdeveloped continent, a poor reputation that deters investment is something the continent can ill afford. Counterfeit operations do not comply with government regulations, so there is a loss of customs and excise duties, corporate and personal tax revenue as well as higher costs for law enforcement and judicial proceedings. The Investment Climate Facility for Africa (ICF) discovered that in 2008 the East Africa Community (EAC), US\$ 500 million in revenues are lost due to unpaid taxes by counterfeiters.(21) This revenue could have been used to invest in much needed physical and social infrastructure, such as roads, schools and hospitals. This has prompted the EAC to establish an intergovernmental forum to tackle counterfeiting. Since each employed person in Africa supports between 10 and 20 people on average, millions are affected. The ICF's study also revealed that in Kenya, over 30% of medicines on sale are counterfeit, and knock-off electrical goods had caused numerous fires. The problem is much worse in West Africa, home of some of the continent's poorest countries, of which many of these are located on the routes of illicit trafficking and where governance is weak. The region has become a dumping ground for various goods, but fake pharmaceuticals are a particularly serious problem.(22) A 2009 UN report showed that revenues from 45 million fake anti-malarial drugs were worth around US\$ 438 million, which is greater than the gross-domestic product (GDP) of Guinea-Bissau.(23)

A survey conducted by the shopping search engine, Kelkoo, revealed that prior to the 2010 FIFA World Cup, nearly a quarter of United Kingdom (UK) consumers indicated that they would purchase fake World Cup goods in order to save money. The research revealed that about a fifth of these goods would have most likely been counterfeit and estimates the potential loss for legitimate businesses at approximately US\$ 72 million.(24) This means that the sale of counterfeit World Cup goods in South Africa made (and is making) a dent in companies' revenue, translating into tax losses for the country. With the World Cup just over, it is difficult to value the cost of counterfeit trade to legitimate businesses and South Africa. Nonetheless, according to the Department of Trade and Industry (DTI), in 2009 the trade in counterfeits, including theft of intellectual property rights, is costing the country more than ZAR 2 billion (US\$ 261 million). Between January and June 2010, South African police confiscated more than ZAR 100 million (US\$ 13 million) worth of fake merchandise.(25) The sale of fake Bafana-Bafana jerseys are not only costing the official supplier, Adidas, millions of dollars in revenue, it is also contributing to job losses in the South African economy, since the original jerseys are manufactured by local producers.(26) With an unemployment rate of around 24%, it is something the country can ill afford.

Conclusion

Buying fakes is not innocent. Crime syndicates thrive on the trade to keep their illicit activities going. With the African market in fake goods expanding, one can expect criminal

syndicates strengthening their foothold across the continent. This means that governments will have to invest more in law enforcement, and in so doing divert much needed resources away from human development endeavours.

The growing counterfeit market in pharmaceuticals poses a real threat to the health of many Africans making it increasingly difficult for countries to attain the health-related Millennium Development Goals (MDGs). The expanding market is also increasing the risk for transnational companies to do business in Africa. Along with this growing risk, comes the stifling of innovation and entrepreneurship, with a direct impact on economic development. Unemployment, and ultimately poverty, increases since only a few (hawkers and traders) benefit from the trade.

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NOTES:

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