

Traceability versus counterfeiting workshop

Brussels, 4 June 2014

Chairman's conclusions

I. Introduction

The purpose of the workshop was to raise awareness and contribute to foster the uptake and widespread use of authentication, marking and traceability solutions to fight the trade of fake goods. The workshop gathered sixty four participants representing enforcement and market surveillance authorities, stakeholders, as well as economic actors along the supply chain.

II. Conclusions

1. Today, counterfeiting is a **global issue** which amounts to an estimated value equivalent to illegal drug traffic (with less risk for organized crime). There are no entry barriers for organised crime for this activity as both technology and finance are widely available. More than 50% of the fake products, in value, are fashion and luxury products, economic sectors where the EU is leader.
2. There is consensus on the **negative impact** of counterfeiting on the competitiveness of EU enterprises, notably SMEs which have more limited resources than big companies to protect their design, creativity and innovation, and to claim their intellectual property rights (IPR) by going to court. Besides tax evasion and the links with organised crime, counterfeiting has also negative impacts on employment, health and safety of consumers.
3. Establishing a harmonised, multi-product **EU wide approach** to track and trace the authenticity of products would help national authorities fight counterfeiting. For example, this would be legally feasible once the General Consumers Safety draft Regulation has been adopted and becomes applicable, as it includes provisions related to traceability (Art. 15) and identification of the manufacturer (Art. 14). However, such an approach should take into consideration not only consumer protection but also the competitiveness goals and interests of economic operators along the value chain. It should build upon existing and on-going initiatives, which provide different but complementary solutions that address specific concerns, e.g. product safety, IPR protection, tax collection, etc.
4. Instead of being perceived as an additional effort to comply with a new regulatory requirement and its associated costs, traceability solutions could **become an asset** for businesses to stop fake products from entering in global value chains. Eventually, traceability would have built-in intelligence and become part of the sales and marketing activities of enterprises. Possible solutions to counterfeiting should not be limited only to the traditional value chain with physical retail outlets but should apply also to, and take into account, online retailing (e-commerce) where the development of fake products sales is worrying and a growing concern.

5. Authentication and traceability technologies already exist that are **robust and flexible**. The technical and economic feasibility of traceability solutions has been demonstrated in different contexts. Governments worldwide have already demonstrated their capability to control fake products as in the case of bank notes, and have developed a track and trace capacity to tax tobacco and alcoholic beverages (excise applied to products with labels or marks on each item).
6. Focusing on product safety aspects, the pharmaceutical industry has been implementing, at EU level, a track and trace scheme which rely on decentralised databases located in each Member State, with a gateway at EU level. Cross sector and harmonised traceability solutions are likely to enable reducing implementation costs, which would be linked to the technology used and the monitoring and control mechanisms envisaged. Depending on the underlying technology, the costs of traceability solutions are expected to be in the range of 0.5 to 5 cents of EURO per product.
7. To favour acceptance and facilitate its widespread use, any new traceability system must, by design and implementation, be **affordable for SMEs**: otherwise it will not fly and miss the point. A number of issues related to information and privacy will emerge, which would need to be adequately addressed. These include gathering and hosting of collected data (e.g. product and manufacturer unique identifier), control of access to information, distribution of roles between the EU and MS as to subsidiarity, ownership of the information, to name but a few.
8. However, the main challenge is not just about finding the relevant legal framework, not even the best available technology. To make it efficient, an EU-wide system would only be effective if **consumers** (and citizens) are widely engaged: they should get access to relevant information whatever new scheme might be set-up. This means that before, during and after the set-up of any new solution to fight fake products, **information and communication** is of the essence. Of utmost importance will be to directly engage industry associations, trade unions, NGOs and consumers associations.
9. Moreover, the **scope** of the covered industries should be defined. Several sectors, e.g. pharmaceutical and toys are already actively involved in fighting against counterfeiting, at EU and international level. While fashion-led industries are natural players, other industries may want to join the process as the wider the scheme, the less costly it will be for each individual enterprise and consumer.

III. Outlook

With the view to promote the widespread use of authentication and traceability solutions, **the following steps** have been identified:

10. The **first** would be to **share the current reflection** with the relevant Commission services¹ and other interested parties.
11. The **second** could be to set up a **multi-stakeholders forum** with participation of the Commission services, of representatives of businesses, trade unions, consumers, and Member States' enforcement and market surveillance authorities. The involvement of public authorities, businesses, and consumers, is a necessary condition to succeed fighting the trade of fake goods. The forum would ideally contribute to, and facilitate awareness raising, vision sharing, coordinating and exploiting possible synergies between different initiatives.
12. **Finally**, the **international dimension** is deemed important, notably bearing in mind that, for example, around 75% of the seized goods by European customs are coming from China. Therefore, coordinating with UNICRI and the World Customs Organisation initiatives is, therefore, considered of utmost importance.

¹ DG SANCO, DG MARKT, DG TAXUD, DG TRADE, DG JRC and the OHIM