



The Anti-Counterfeiting Group
Campaigning Against the Trade in Fakes
www.a-cg.org



The Anti-Counterfeiting Group Facts About Fake Fragrance

Survey information from

LEDBURY
RESEARCH

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INTRODUCTION

Intellectual property is defined in the **IP Crime Report 2007¹** as the legal rights owned by individuals and organisations in inventions, designs, goods and other creations, produced by intellectual activity in the industrial, scientific and artistic fields. These rights are intended to protect the creators and ensure that they will benefit from their originality and effort.

Just like physical property, intellectual property (IP) can be stolen.

IP crime is committed when products are copied and/or marketed for profit without the consent of the rights holder. This is a double-edged crime, as it also defrauds and threatens the consumer.

There are two categories of IP crime: **counterfeiting**, which involves branded goods (protected by trade mark law) such as clothing and footwear and pharmaceuticals, and **copyright theft**, which involves other industries such as music, film, books, computer games and software (protected by copyright law). The two kinds of protection can often overlap, with both trade marks and copyrights involved in a given product e.g. software.

Fighting IP crime matters because:

- it causes economic, social and physical harm to individuals and local communities, nationally and globally
- it is a low-risk 'soft' crime, linked to some very unpleasant criminal activity
- the huge profits from IP crime are used to fund other serious organised crimes such as people smuggling, drugs, guns and child pornography.

The Anti-Counterfeiting Group (ACG) represents the interests of UK and international companies, manufacturing practically everything you can think of, from toothpaste to mobile phones, chocolate to car parts. Our membership also includes lawyers, trade mark agents and brand protection specialists, creating a unique environment for anti-counterfeiting interests to flourish and collaborate.

Via our lobbying, awareness and networking activities, ACG campaigns against the trade in fakes on behalf of consumers and legitimate business interests, in partnership with government and law enforcement agencies, and other rights organisations. Our ultimate aim is to change society's perception of counterfeiting as a harmless activity, by exposing the worldwide economic and social cost of IP crime.

ACG is also a member of the **Alliance Against IP Theft**, a unique coalition of associations representing rights owners in all industry sectors affected by product counterfeiting and piracy, ranging from branded goods, music and video to books, computer games and software. The Alliance has been campaigning for greater recognition of the value of IP, and for better enforcement of IP rights, since it was formed in 1998 www.allianceagainstiptheft.co.uk

IP crime is increasingly being recognised by government and law enforcement as a major problem, both in the UK, and globally.



¹ Available from the UK Intellectual Property Office website www.ipo.gov.uk/ipcreport.pdf

Attempts are regularly made by industry, government, the intelligence services and law enforcement to measure the full impact of IP crime, and the threats it poses to the economy, to consumer safety, and to local communities.

This is important because the results of such efforts will determine the priority given to IP crime in the national enforcement agenda. Several different government departments have responsibility for different aspects of IP crime, and consistency of information and policy is crucial.

The makers and sellers of genuine products can't compete with the criminals, who don't need to fund any research and development, pay proper wages, comply with safety regulations or meet the cost of permanent premises.



Various estimates have been made in the UK of industry losses, criminal gain and loss to the Exchequer e.g. through unpaid VAT. Job losses undoubtedly result from the harm to legitimate manufacturers and retailers, but this is also difficult to estimate accurately.

The Internet now offers a particular challenge. Impossible to regulate and police effectively, its auction sites and traders offer consumers endless choice, and a huge market in fakes, sight unseen. In effect, the Internet has created a vast new superstore for the consumer to browse at will, in the comfort of their home, at any time they choose.

It offers retailers and brands an ever-expanding market for their goods. Unfortunately, criminals also love the Internet, for its speed, reach and anonymity and the scale of their activities is equally impossible to estimate.



As yet there is no standard methodology for sizing the problem or assessing consumer psychology, and there still seems to be an unquenchable consumer desire for a bargain. However, when that fake fragrance bought for little Susie in the local market is funding the supply of drugs at her school gates, such a 'bargain' may end up costing a great deal.

Demand is the ultimate driver in counterfeiting, and IP crime can be wiped out if its consumer market disappears. In order to get the right messages across, it is crucial to understand consumer spending patterns, socio-economic and geographical variations, and attitudes to IP crime.

With all the difficulties of trying to acquire accurate information about this serious organised crime, one of the most robust and consistent ways to measure the harm caused by the trade in fakes is via properly conducted consumer surveys.

An independent survey of the fragrance sector in the UK was carried out in April/ May 2007 by **Ledbury Research**, selected for its experience in this sector, which had already delivered two well-received surveys of consumer attitudes to fake luxury goods in May 2006 and June 2007.²

We hope that this survey report will help to inform all stakeholders and contribute to the creation of a national enforcement strategy in the fight against IP crime. For further information about ACG, its members and activities visit www.a-cg.org

Ruth Orchard
ACG Director-General
Alliance Vice-Chair

May 2007

² *Counterfeiting Luxury: Exposing the Myths* June 2006 and 2007 Available to download from the Anti-Counterfeiting Group website: www.a-cg.org (in Guest Area, Publications/Reports) by kind permission of Davenport Lyons

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HEADLINE RESULTS

(1) consumers would spend £319 million a year on genuine products, had the fake fragrances been unavailable.

(2) sales of fake fragrance in the UK are funding serious organised crime to the tune of £315 million each year. This is the amount spent by consumers in the UK in one year on fake fragrances, bearing the names of famous brands.

The loss to the Exchequer of unpaid taxes on that amount would fund:

- the creation of 10,000 more care home beds
http://www.epsu.org/IMG/pdf/Care_policies_updated.pdf
- the Lottery Fund's annual contribution to the grant-making Community Fund
http://www.biglotteryfund.org.uk/pub_annual_rep_cf05.pdf
- the entire budget for investment in council housing in Sheffield
<http://www.sheffield.gov.uk/EasySite/lib/serveDocument.asp?doc=24786&pgid=43239>.
- the LDA's investment in the regeneration of Wembley, London
http://www.lda.gov.uk/upload/pdf/LDA_News_Issue_3_13_April_2005.pdf
- the takeover of West Ham FC
http://www.whoateallthepies.tv/2006/11/hammers_accept.html
- smoking cessation measures in the whole of Scotland
<http://www.ashscotland.org.uk/ash/3424.html>

- 35% of UK consumers have ever bought fake fragrance
- 9% have in the past year
- 17% would in future
- They enjoy a slightly lower than average income, but otherwise fake buyers are no different from the population as a whole

37% of fake buyers earn less than £20,000 vs. 34% of non-fake buyers
No gender difference
Fake buyers marginally younger (average age of 45 vs. 48)

- Both men and women tend to buy fake fragrances mostly for themselves
- Most fake buying is done through market stalls
- 37% wouldn't have bought anything had the fake been unavailable
- 49% would have bought a genuine alternative
- Over half the respondents only buy fakes in the UK – more than e.g. fake clothing
- Spain is the most popular source of fake fragrance outside the UK
- Over a quarter have or might have unknowingly bought a fake

Consumer Survey - Fragrance Sector

commissioned from independent survey specialists

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MORE INFORMATION

The fragrance sector was chosen because it is one of the most vulnerable to attack from counterfeiting in the UK, and one of the most popular kinds of fakes for consumers to buy.

In 2006, the UK fragrance market was valued at £1.61 billion by Datamonitor (a leading provider of online data, analytic and forecasting platforms for key vertical sectors). The loss to legitimate retailers, traders and industry in this sector was £319million.⁴

Therefore indications are that the value of the fake fragrance market might be as much as 20% of the genuine market.

Some fake fragrance is produced in the UK, but many fake versions of famous perfumes originate in Turkey, the Middle East and China. UK Customs regularly seize quantities of fake fragrance being shipped in from abroad, for example Thailand and Dubai.

Fragrance counterfeiters are among the true masters of their crime, with the aid of modern digital imaging and printing techniques. They are capable of producing almost identical replicas of all the major leading perfume brands on the market today.



It is important to appreciate the implications. These operations requires a source of fake bottles, a factory with the means to fill the bottles, whether automated or by workers, a printer to make the labels and a box manufacturer for the fake packaging.

It also needs a sophisticated distribution network, with 'retail' outlets at the other end - such networks are usually already in use for other serious organised crimes such as gun and drug smuggling, and people trafficking.

Counterfeits are also readily available online, via e-commerce sites such as eBay, many of which are posted into the UK per order, in single parcels, from other countries where they are made with no safety testing or quality control.

There are even entries on eBay from legitimate traders warning of fake fragrances and how to spot them. One warns of eBay traders registered in Poland and Latvia selling perfumes, which will be fakes originating from Turkey or Russia.

Consumers may not discover that they have bought a fake until after they have applied the fragrance.

At best, it may smell quite similar but only last perhaps an hour instead of several. At worst, it may cause a serious allergic reaction which may prevent the user from ever wearing fragrance again. And in the bottle, fake fragrance will usually break down in a month or two, leaving oily alcohol which does not smell good.



Major criminals will not just be involved in making and selling fake perfume; they produce fakes of many kinds, to spread the risk and maximise their profits. The trade in such fakes is also associated with other serious criminality.

³ See Appendix



CASES

November 2007

In an action brought by Newport City Council Trading Standards, Jeffery Young from Rogerstone, Newport, South Wales was sentenced to 12 months imprisonment for fireworks storage offences and 2 years for the possession of 628 bottles of counterfeit perfume. Young appeared at Cardiff Crown Court on 23rd November 2007 facing sentencing for the Trading Standards offences in a hearing which also dealt with him and 4 others for conspiracy to supply class A and B drugs.

July 2007

A court ordered confiscation of £272,400 from an illegal trader, Jatinder Bains, following his conviction and imprisonment for conspiracy offences in April in relation to a counterfeit perfume scam. It was estimated that the gang stood to make £2.5million from the scam. Staffordshire police had found more than 25,000 bottles of fake perfume, bearing many different famous brand names, when they raided a factory unit in Sheldon earlier in the year. If Mr Bains fails to pay the order, he will be imprisoned for another three years instead.

28- 29 June 2007

Salford Police, working with Salford Trading Standards Officers and the Department for Work and Pensions (DWP), carried out raids at Salford Market and seized counterfeit goods with an estimated value of over £250,000. Four people were arrested on suspicion of selling counterfeit goods and illegally claiming benefits. Seven transit vans were filled with goods during the operation including over 14,000 DVDs, CDs, clothing, trainers, jewellery and perfumes. Officers from DWP also gathered intelligence over a 12-month period from June 2006, and found suspects had claimed thousands of pounds in illegal benefits.

October 2006

It was reported in Manchester in that fake perfume containing urine had been found. Urine has been detected before in fakes, as it is a common substitute for the proper stabilisers used in genuine fragrances (for ph values, UV protection etc). The seized perfume was tested by trading standards and found to cause skin rashes - such allergic reactions can prevent the use of any perfume in the future, whether fake or genuine.



MORE ABOUT COUNTERFEITING & PIRACY

THE CRIME OF THE 21ST CENTURY

For nearly 30 years, ACG has fought for recognition of the real impact on society of the trade in fake goods. Bad enough that **quality standards & guarantees** don't apply to fake products. Far worse, **consumer health & safety** is at stake:

CONSUMER HEALTH & SAFETY

- fake children's toys and clothing aren't safety-tested
- counterfeit mobile phone and appliance batteries explode
- fake cosmetics & perfumes contain illegal substances e.g. urine
- fake alcohol is laced with methanol (paint-stripper) and can kill
- fake pharmaceuticals have arrived in the UK supply chain

ECONOMIC IMPACT

A recent consumer survey has revealed that, in the UK clothing & footwear sector alone, **over £3billion** goes into the pockets of the fakers each year. Most of that is **pure profit** for these criminals, who don't pay product development or safety compliance costs, proper wages, tax or VAT.

LINKS TO OTHER SERIOUS ORGANISED CRIME

Counterfeiting is a relatively low-risk crime. Major criminals fund other illegal activities (guns, drugs, child pornography) with the money they make from fakes, using their existing smuggling and money-laundering networks to ship millions of counterfeits worldwide. Interpol has reported evidence of clear links between counterfeiting and terrorist cells in the Middle East, Europe and Latin America.

BEWARE OF IMITATION - ESPECIALLY IN CYBERSPACE

The main target used to be luxury goods, but now almost every kind of product you can think of is being faked, many of which we buy, in good faith, on a daily basis. In the past few years, the Internet has become a major source of fake products - even pharmaceuticals - which are often sold as genuine. **Over £30 billion** is spent online each year by UK consumers. It's a vast virtual car boot sale, and in cyberspace the sellers can vanish with your cash in seconds. Auction sites and traders offer a seemingly endless choice, but their global operations are impossible to regulate and pose a serious threat to industry and the consumer alike.

MORE THAN YOU BARGAINED FOR

People who buy fakes are leaving others to pick up the tab. The money spent on fake trainers for the kids may well fund the drugs being peddled outside their school gates.

We must all think of the bigger picture:

- health & safety risks for consumers
- reduced profits for legitimate companies, lower wages, lost jobs, less growth
- lost revenue, unemployment costs, less for healthcare, education, housing
- serious criminality - local, national, global - affecting everyone

STILL THINK IT'S A BARGAIN?



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