

# The Dimension and Implications of Counterfeited Goods Trade

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## Abstract

*The attributes that are associated to counterfeiting have negative connotations; it is seen as a bad phenomenon having connections with falsifying, copying, poor quality, illegality and low prices.*

*Counterfeited products give funds to the black market and to the underground economy, leading to tax evasion. In its turn, tax evasion has effects on the living standards and on the level of taxes that are increased and must be paid by the citizens.*

**Key words:** *counterfeit, counterfeited and pirated goods, eradication program, authorities, consumers*

## A Brief History

From a legal point of view, counterfeiting means “using the identification elements of one brand – name, logo etc. – for those goods that are not produced by the owner of the respective brand.” ([1], vol. I. pag. 13).

It is estimated that between five and nine percent of the world’s economic transactions are done with counterfeited goods [5]; their estimated value exceeds 450 billion USD at present. At the top of the countries that receive counterfeited goods there is the United States of America, with 250 billion USD a year.

In the European Union, the situation is similar: according to statistics, the annual rate of increase for seized goods at the borders of the member states reached 300% for counterfeited goods and 1500% for audio and video piracy.

It seems that the first act of counterfeiting dates back from the introduction of currencies in human societies. Romans have counterfeited some coins, manufacturing them from copper and covering them with silver, but this was later considered legal practice. These coins were used to pay for the services of the Roman soldiers who fought on enemy territories; if the soldiers had become prisoners, precious metals such as gold or silver would not have been lost, instead, copper, a much cheaper metal, would have been lost.

In Ottoman money deposits in the area of Banat, coins were manufactured from gold and silver that was extracted from the mines in the region. Since there have been a lot of counterfeited coins, sultan Selim the Second decided that the deposits should be closed down and precious metals should be sent to Istanbul.

Within the premises of Snagov Monastery, between 15<sup>th</sup> and 16<sup>th</sup> century, there was a money deposit that would counterfeit coins that bore the face of Gustav the Second.

The expansion of printing led to the publication of counterfeited chronicles, bibles and rewritten prayer books.

Prohibition also led to the development of underground economy and encouragement of counterfeited products.

In Romania, the first form of protection for drawings and industry is represented by the so-called “privileges” offered by the rulers for a fixed period of time, mentioning that they cannot be used by a third party. For example, ruler Alexandru Moruzzi granted in 1880 a privilege to Stănilă for “a bunch of head cloths, bundles, quilts, pillows and blankets... up to 15 years, the term starting on May 28<sup>th</sup>, 1880” [3].

In Romania, the first law for patents was passed in 1906 (after signing several international conventions), and the unique title of protection for inventions is the patent with a validity of 20 years.

In 1923, in the Official Bulletin of the Office for Industrial Patents there appeared a *Bill of Law on the industrial drawings and models*.

In 1924, the Association for Consumers’ Protection is set up and it has a non-governmental character.

Between 1970 and 1990, the State Office for Inventions and Brands proposes several bills of law about the judicial protection of the industrial models and drawings, but these bills never became laws.

In 1996, the Romanian Office for Royalties is set up.

In 2000, the Law for Royalties and the regulations for the observance of customs duties are enforced.

## **The Place of the Phenomenon within the Economic and Social Contexts**

The phenomenon of counterfeiting is so well established in everyday life and so widely spread that practically it has escaped control. The impact of trade with counterfeited goods on the producers of original goods, on the consumers and on the economies of the countries where it appears is significant.

Rush for bargains, ignoring the existing laws and lack of enforcement have the same psychological mechanisms all over the world. That is why counterfeiting is one of the most lucrative businesses.

Some authors [1] consider that counterfeiting and piracy are “crimes without victims”. There are opinions [4] stating that “copying is only but a form of admitting value”.

In the beginning, the main categories of products that were affected by counterfeiting belonged to prestigious brands, but at present, almost all categories of goods are affected.

Practically, any product can be counterfeited: clothes, shoes, medicines, cosmetics, cigarettes, telephones, computers and other home appliances.

One may establish a type of behavior aimed at buying the counterfeited products in two situations: it is either an intended choice, which takes into account the advantages (low price) and the disadvantages (poor quality), or a choice that is dictated by circumstances, with the price being the only criterion.

Countries with a large proportion of poor people, like Romania, are affected by this phenomenon. Developed countries with a high degree of civilization cannot escape the impact of this phenomenon. The United States of America are the preferred victim, together with the communitarian space.

According to the data published by ARCC in 2004 [4], the annual increase rate for counterfeited and pirated goods that were confiscated at the borders of the EU member states reached 300%. Estimations show that almost 8% of the world figure for business involves counterfeited beverages.

Economy in Europe loses every year more than 450 million USD because of the black market. At the borders of the EU, customs officers confiscated almost 95 million counterfeited and pirated goods, 42 million being goods for large-scale consumption (razor blades, batteries, shampoo, detergent, machine parts, kitchen tools, cosmetics). Counterfeited food and medicines represented 4% of the total amount. Almost 40 million pirated goods are CDs, DVDs, computer games and movies. Downloaded pirated computer software represented almost 11 billion USD in 2000[6].

The highest rate of dissatisfaction with counterfeited goods and opinions referring to the danger to health are recorded for food products. Taking the risk of buying counterfeited food is caused by the same motivation of low prices in the context of low income for the everyday living. The alternative counterfeited food vs. no food is the one that determines the choice.

Being too preoccupied with obtaining fast income and without the necessary technical instrumentation, some counterfeiters do not respect the standards of quality and hygiene, and this further has very unpleasant effects on the end users. Deceived and feeling they were cheated on, consumers will refuse to buy the goods with a certain label or of a certain brand, although the goods may be the genuine ones, just because the counterfeited goods led to discomfort.

Thus, some producers may fall down completely and the entire social and economic climate may be deteriorated. Having to face the weaknesses of a market that does not protect intellectual property, investors withdraw or they move to a different country.

## The Dimensions of the Phenomenon

The phenomenon of counterfeiting is increasing at a rapid pace all over the world. More than 42 million goods are counterfeited at present. There is no one single person that consumes or uses counterfeited goods.

The *operations* that may be considered counterfeit (according to CRCC [1] vol. I, p. 138), are mainly the following:

- Fraudulent imitation with the purpose of misleading the beneficiary (consumer) on the basis of a similitude with the genuine product;
- Exact reproduction of a trade mark for identical or similar products;
- Using packaging, labels or other signs that reproduce the original trade marks;
- Launching products that have a similar phonetic name with a trade mark, for identical or similar products, with the purpose of misleading the consumers.

In the countries where democracy and market economy are becoming stronger after dictatorial regimes and centralized economies, freedom has led to a real boom of goods. One may find on such markets a lot of counterfeited goods bearing the name of famous brands, but with very attractive prices: cosmetics, medical drugs, textiles, shoes, mobile phones, music and software CDs, electronics, mechanical parts, food and many others.

Overall, in the communitarian space, forgeries have increased by ten times in the past 8 years: from 10 million to 100 million counterfeited products. At the same time, the interest areas for counterfeiters have also increased: from cigarettes, CDs, perfumes and clothes to detergents, tooth paste, cell phones and printers.

The main areas of interest for counterfeiters are computer software, games, music and films. The amplitude of counterfeited products as far as royalties are concerned is enormous.

Using illicit commercial practices and selling counterfeited goods, a company may obtain the same position on the market like the original manufacturer. In this case, genuine companies have great losses.

Usually, successful brands are the target of the attacks. Whenever counterfeiting is doubled by the intention to compromise the reputation of a notorious brand, by offering a lower quality of the respective product, the consequences may be serious, deteriorating the image of the company and decreasing consumer trust. Among the *consequences*, we may mention:

- restriction of production;
- large scale firing;
- reduction of salaries;
- decrease in the living standard.

The consumers who benefit from counterfeited products are those with a low income, sometimes with lower education, who prefer a lower price regardless of quality, and who are also motivated by momentary material needs; another category is made up of educated consumers, with a higher income than the average, who are motivated and understand the brand, have certain expectations from it, but they are misled by the so-called quality of the product.

In Romania, two thirds of the population live at the border of living; 33% of these people are pensioners. Poor buyers go towards the cheapest products no matter where they come from. Because of low financial resources, the poor quality of counterfeits is not taken into account.

Higher income does not lead to a behavior that eliminates acquisition of counterfeited goods. The behavior of those people who have money is similar to poor people's behavior: they tend to buy counterfeited products in a larger proportion than those who have less money.<sup>1</sup>

In its turn, a higher level of education does not eliminate the risk of being tricked by counterfeited products, since people with higher education are tricked in the same proportion as those with average education (62% as compared to 61%). Buying while being aware of the product is more frequent with the people with higher education due to their better knowledge of the brand and to their ability to discern between acceptable and unacceptable counterfeited products, when they decide to buy counterfeited products and not the genuine ones.

As far as age is concerned, the behavior of the third age differs from the rest of the age groups, since it is influenced by the characteristics of the income and customs of this age group.

Thus, half of the young and active population have bought counterfeited products while being aware of the fact, only one third of the people aged between 50 and 65 years old have made this choice ([1] pag.19). Among the *explanations* for this, one may mention the following:

- Lower income of the third age makes people buy less, a reason for which the predictability of buying a counterfeited product is lower;

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<sup>1</sup> According to an INSOMAR poll, 62% of the people with high income admit they have bought counterfeited products, being aware of this fact, as compared to 51% of the poor people. ([1], vol. I, pag. 18)

- Conservatory behavior, meaning that people tend to buy only those products they know; this protects them for counterfeited products.

Although it is mainly a negative phenomenon, counterfeiting is not always associated with an illegal practice since counterfeited products may be bought from legal trade.

As a result of selling these products, there are losses for the companies that have the rights on the genuine trade marks, for the state because the level of taxation decreases (usually selling such products is carried out by tax evasion), for the buyers because they buy products of poor quality which are not satisfactory for their needs and, in time, buyers will have to pay more since the goods may quickly deteriorate or they may even threaten their lives. Counterfeits steal the identity of notorious trade marks and, at the same time, they steal the expectations of the consumer, such as trust, safety and comfort.

Consumers must be informed and warned about the risks they take when they buy counterfeited products. They must be aware of the dimensions of the losses that may be largely paid by them.

## The Fight against Counterfeiting

Producers of counterfeited and pirated goods have a common characteristic: illegality of the products that are introduced in the economic circuit. These producers are motivated by the large income favored by the poverty of most of the consumers and the weak efficiency of the control systems (controllers are corrupt). The low price of such products is based on poor quality, non-payment of taxes and poor salaries for the employees.

Usually, the money coming from such activities is used for illegal purposes since counterfeiting is linked to organized crime, money laundering, drug trafficking and weapon trafficking. In the European Union, almost 30,000 people remain without jobs every year because of this phenomenon.

Any program to eradicate counterfeiting in Romania must take into account a reality according to which three quarters of the population has low income and thus it should promote alternatives so that the majority of the population could obtain normal products, in the context of their pattern of consumption (see Figure1).

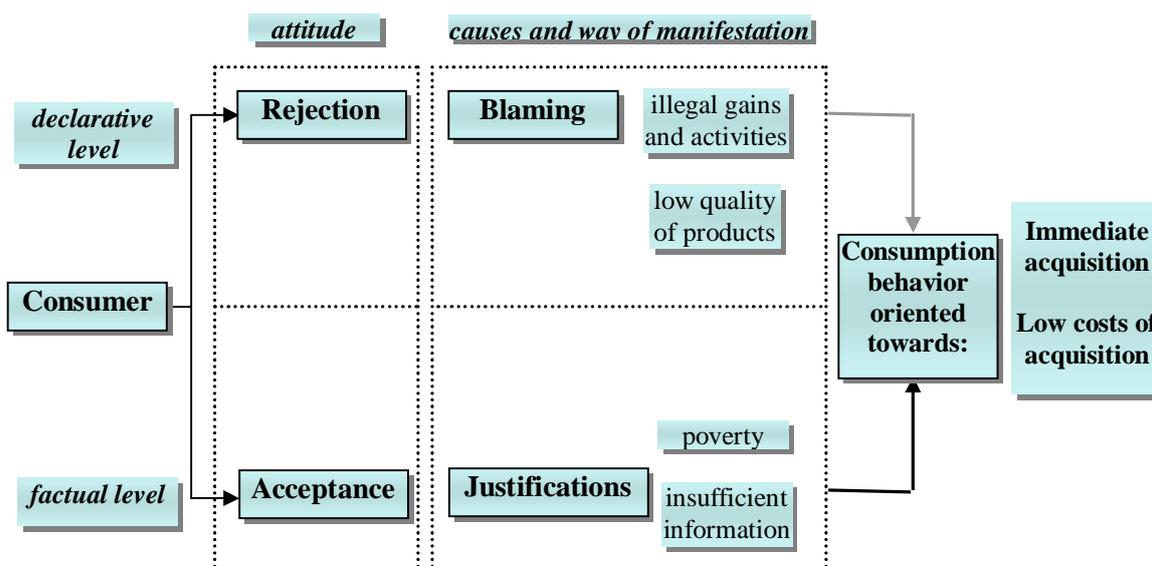


Fig. 1. Romanian consumer's pattern

Source: Coste, D. (coord.) – *Fenomenul contrafacerilor în România* (vol. I, II, III), Editura Ziua, București, 2003

Romania is not one of the large producers of counterfeited goods, but it may be included in the transit area. Customs are the first that act at the border, being the first obstacle in the way of these products.

An important role is played by the National Printing Office, that ensures the security of financial, fiscal and accountancy documents. For example, for the forms with special requirements, the main security element is the fluorescent blend that is visible with UV light and that is incorporated in the body of the paper. Security elements are divided into: overt, covert and forensic. Printing is also carried out on paper that has some other security elements: watermark paper, fluorescent blend paper, and metal wire paper with or without a text or chemically treated paper. Security paper for the forms with special requirements is unique in the world, and the National Printing Office has the exclusive right to use it. There are also special inks that are visible in UV light or that can be detected with special instruments; access to these inks is practically impossible and counterfeiting is excluded. The high-security graphical elements are made with special software, according to a well established mathematical model that includes a lot of parameters that cannot be duplicated.

In the context of a reduced purchasing power, eradication of counterfeiting, forgery and piracy cannot succeed if measures take into account simple punitive actions.

The producers of counterfeited goods have become specialized and use professionals and the latest technologies. That is why, in order to fight against counterfeiting one must have professionals and proficient techniques; at the same time, both the rightful owners of the brands and civil society should be involved.

An efficient policy to fight against counterfeiting should focus on redefining the phenomenon among the public and educate the population as far as these products are concerned.

Those who are affected by this phenomenon should be the first to be interested in the fight against piracy, forgery and counterfeiting since the original producers are quite disinterested and passive. The support of the owners of original brands and trade marks is very important in the fight against this phenomenon.

An efficient program of eradication could have the following *objectives*:

- promotion of loyal competition, by means of legislative projects that aim at the improvement of commercial relationships;
- enlargement of collaboration in the business area in order to reduce counterfeiting;
- initiation of partnerships among investors, producers, consumers and authorities that will promote a campaign against counterfeiting;
- using security elements that are hard to be imitated;
- better information of consumers so that they become aware of the risks they take when they buy counterfeited goods;
- setting up special compartments at border crossing, with trained personnel that could check the products that are suspect of being counterfeited;
- obligation of a certificate of conformity from a recognized authority for any product that is supposed to be sold so that any consumer could verify online if the product they bought was genuine or counterfeited;
- increase of trust in the authorities that are supposed to fight against this phenomenon;
- training specialists from the Justice Department on forgery and royalty.

Authorities should assure people of a non-violent and civilized society where the economic flux has a normal circuit and honest tax paying companies face loyal competition. Bringing counterfeited products on the stock exchange cannot be admitted since it is the result of crimes.

Consumers are the first objective of the phenomenon; the black market of counterfeiting is working for consumers. They are the ones who finally make the decisions by showing their preference and giving options, and they decide who stays and who leaves. Some forged products break down quite easily and quickly and consumers regret they paid the money.

If a company is alone in this fight, it cannot protect the products against counterfeiting. In order to achieve this, it is necessary that common effort should be made by all those who are interested in fighting against this phenomenon

## **Conclusions**

The attributes that are associated with counterfeiting have negative connotations; it is seen as a bad phenomenon having connections with falsifying, copying, poor quality, illegality and low prices.

Counterfeited products give funds to the black market and to the underground economy, leading to tax evasion. In its turn, tax evasion has effects on the living standards and on the level of taxes that increase and must be paid by the citizens.

Informing of consumers and raising their awareness about the risks they take when buying counterfeited goods is efficiently achieved by means of mass-media: written sources may have a thoroughly persuasive character, while the audio-visual sources persuade due to the impact on the collective image.

Authorized structures in fighting back counterfeiting, which are generally well-known, are not trusted and this is because of the superficiality of controls. The rise of distrust in authorized sources will take place once hands-on results are achieved.

Although at the level of statements, counterfeiting is rejected and condemned, it is accepted as being natural in the present-day context of the Romanian economy and society. The main cause of the high consumption of counterfeited goods in the Romanian market is poverty. The person who buys these goods has the following characteristics: low income as compared to the necessity and prices on the market; the main criterion of choosing a product is the price and not the quality; they do not have enough information about counterfeited goods and about the negative effects they may have.

The level of counterfeiting reflects on the one hand, the preference of consumers for brand products (which are bought for lower prices than the genuine products) and, on the other hand, the ability of the counterfeiters to adapt to the demand.

Rich or poor, young or old, some consumers tend to buy clothes, (sport) shoes and other counterfeited goods. The preference for such products, as stated by some of them, is connected with a low level of harm on their health and an affordable price, although the quality is lower than the quality of a genuine product.

Counterfeiting, forgery, piracy may be correlated to smuggling, fraud and illegal trade, whose real dimensions are hardly known even by those who are supposed to fight against them.

Counterfeiting is firstly a social phenomenon and secondly an economic phenomenon. Buyers of all age groups, social strata, levels of education and income are active participants to this phenomenon.

People will continue to buy counterfeited goods, being aware of this fact, as long as they lack real options, for similar prices as those offered by counterfeited products.

## References

1. Coste, D. (coord.) – *Fenomenul contrafacerilor în România* (vol. I, II, III), Editura Ziua, București, 2003,
2. Diaconescu, I. – Produse alimentare contrafăcute, în *Bazele Merceologiei II*, Editura Uranus, București, 2002
3. \*\*\* O.G. nr. 59/2002 de modificare a Legii 202/2000 privind protecția în vamă împotriva mărfurilor contrafăcute
4. \*\*\* <http://www.mpublic.ro/proprietate-intelectuala/2004/10/14>
5. \*\*\* <http://liberalism.ro/wordpress/index.php/2007/09/23>
6. \*\*\* <http://www.cnin.ro/2008/01/19>
7. \*\*\* <http://www.snbreact.nl/2008/03/18>
8. \*\*\* <http://www.mpublic.ro/proprietate-intelectuala/2004/10/14>

## Amploarea și implicațiile comerțului cu mărfuri contrafăcute

### Rezumat

*Atributele asociate contrafacerii au conotații negative; aceasta este percepută ca un fenomen dăunător, asociat cu falsificarea, copierea, calitatea necorespunzătoare, ilegalitatea, prețurile mici.*

*Produsele contrafăcute alimentează cu fonduri substanțiale piața neagră, economia subterană și astfel generează evaziune fiscală. Aceasta, la rândul său, se repercutează asupra nivelului de trai, respectiv conduce la creșterea taxelor și impozitelor ce trebuie suportate de către consumatori.*