

The Counterfeit Conundrum: Are the “Fathers of Fake” Really “Masters of Marketing”?

Dr. Heather Kirkwood, heather.kirkwood@farmingdale.edu*

Dr. Thomas Tanner, ttanner@bloomu.edu

Introduction

The production and consumption of counterfeit products dates back over two millennia. Consumption of such products is on the rise. To combat the efforts of counterfeiters, the United States government has deployed marketing tactics to educate consumers regarding the negative impact of purchasing and consuming such products. This case study looks at the counterfeit goods market and examines some of the tactics currently being utilized. This case study can be used in Marketing Principles courses to link marketing theory to practice.

A Timeline of Counterfeit Product Production

Despite recent attention, counterfeiting is not a new phenomenon. While the world seemingly began to take notice of such activities during the 70's, the origin of counterfeiting predates back to nearly 2000 years ago, when brand logos were replicated on wine stoppers in France (Phillips, 2005). Through the years since, counterfeit products have found a way into mainstream business. It is no longer a matter of if a product will be counterfeited, but when will a fake version appear in the marketplace. Technological advances, such as the invention and widespread usage of the Internet have widened the distribution network for such products, thus contributing to increased consumption. Internationally, the sale of counterfeit products is estimated to account for nearly \$1.7 trillion in 2016 (ICC). This number is a conservative estimate as due to the illicit nature of counterfeiting activities, no true measurement can be taken.

Many counterfeit goods purchased in the United States are manufactured in other countries and enter the country illegally. In May 2017, US Customs and Border Protection (CBP) reported that during the first half FY 2017, 821 shipments valued at \$14 million (MSRP) were confiscated. CBP reports that the top five economies of origin (by estimated value) producing products confiscated at US Borders area as follows: China, Hong Kong, India, Canada and Singapore. A wide variety of fake products enter the US illegally each year. CBP (2017) reports the most commonly seized counterfeit products are: apparel, consumer electronics, shoes, watches/jewelry, pharmaceuticals/personal care products, handbags/wallets, optical media, computers/accessories, designer tags/labels, and toys. While these product categories are reported to be among the most commonly seized fake items at our borders, it is important to note that counterfeiting exists across all categories. Everything from the items previously mentioned to building materials, auto parts, and even the food and beverage industry, is impacted by the presence of fake goods.

Forms of Counterfeit Products

A counterfeit product is considered to be a product that is manufactured to illegally replicate an authentic product, complete with brand name (Grossman and Shapiro, 1988). Counterfeit products fall into two categories: deceptive and non-deceptive (Grossman and Shapiro, 1988). A deceptive counterfeit product is one in which the consumer can not readily observe the quality of the goods they are purchasing, nor can they easily distinguish copies from authentic merchandise,” (Grossman & Shapiro, 1988). Due to the indistinguishable nature of such products, consumers are duped into believing they are buying the authentic item. This has the potential to become especially dangerous for consumers, specifically when dealing with counterfeit food items, medications, and automobile parts. The quality is not likely to be of the same caliber and furthermore, such products have not undergone government testing and therefore could pose health hazards. Conversely, non-deceptive counterfeits are those products in which the consumer often knows, or possibly suspects the item to be fake, as evidenced by its quality, price, or location of distribution.

Counterfeits are Big Bargains...Right?

The temptation to knowingly purchase a counterfeit item can be too overwhelming for some consumers to resist. After all, many consumers treasure the idea of owning the hottest, trendiest items in the marketplace while

sacrificing little cash to do so. We want to wear the latest fashions and keep up with those we aspire to be like, but we may not be able to afford to do so. Counterfeits offer a cheaper way for consumers to indulge in such luxuries. Counterfeits can seem like a big bargain to the consumer who lacks knowledge of the serious implications involved with such purchases. As it is not currently illegal for consumers to purchase counterfeit items, the consumer often has little to no knowledge or understanding of the consequences of such illicit transactions. Some consumers are aware that there may be ethical implications associated with the purchase of such products, yet justify doing so as they believe it to be a “victimless crime”.

From a business perspective, the production and consumption of counterfeit goods is detrimental. First and foremost, legitimate businesses suffer from loss of sales and subsequently, loss of jobs. The purchase of counterfeit goods can lead to devaluation of luxury good brands. Negative brand perception and brand contamination can occur. The presence of counterfeit goods in the marketplace may also lead some consumers to experience brand confusion. The government is also negatively impacted by counterfeit consumption. Counterfeit products are not inspected like those produced by legitimate businesses. Counterfeiters are able to evade taxes which results in lost revenue.

Counterfeit good consumption doesn't just negatively impact legitimate businesses and the government. The loss of revenue from taxes translates to less funding for social programs. In addition, proceeds from the sale of counterfeit items have been linked to the funding of terrorism, organized crime, drug and firearm trafficking, human trafficking and prostitution. Consumption of counterfeit items also can potentially pose serious health and safety issues- especially in product categories such as food, drink, and auto parts.

Efforts to Curb Counterfeit Consumption

Several laws exist to deter the production and consumption of counterfeit goods, but there are issues with the actual enforcement of the laws. Part of the ongoing challenge is that counterfeiting is growing at a such a rapid pace that it's prevented law enforcement agencies from sustaining adequate control. Additional challenges exist in that the waters become a bit muddy in terms of who is actually responsible for enforcement. The fragmented enforcement system resulted in the World Trade Organization establishing an Agreement on Trade Related Aspects of Intellectual Property Rights to help establish consistency among member nations. While a valid attempt to provide consistency, enforcement remains an issue as not all countries are members of the WTO and therefore not party to the agreement.

Those charged with enforcing the law list several other challenges to thwarting counterfeit activity. Lack of financial resources is often cited as a culprit for inadequate enforcement. Challenges with lack of training regarding criminal enforcement is also a contributing factor (Simone, 2002). Like their consumer counterparts, law enforcement officers also sometimes view counterfeiting as a “victimless crime” and as they are charged with handling other types of criminal activity, sometimes adopt a lackadaisical approach to enforcing counterfeiting laws. This hasn't gone unnoticed by the counterfeiters.

As stated before, many consumers consider counterfeiting to be a “victimless crime”. Somewhat alarming, recent studies have shown that members of certain segments (Generation Y), feel that the shameful or illegal nature of such transactions are appealing due to the “cool factor”. This indicates that another challenge of curbing counterfeit consumption lies with educating consumers regarding the negative consequences of engaging in illicit transactions. Education of consumers, employees and the general public can be an effective tool. Several trade associations and coalitions have developed You Tube and social media campaigns to reach consumers and educate them about the dangerous implications of purchasing fakes.

In the summer of 2017, US Customs and Border Protection launched a marketing campaign titled “The Truth Behind Counterfeits” in a concerted effort to raise awareness about the dangerous implications of counterfeit good purchases. The campaign, targeted at international travelers, brings attention to negative consequences such loss of American jobs and criminal activities such as human trafficking, drugs, weapons and other illegal

activities.

Fathers of Fake----Are they the Masters of Marketing?

Counterfeit consumption is on the rise and clearly remains a problem. Consumers knowingly continue to purchase illicit goods. Counterfeiters continue to sell products, evade taxes and often escape or avoid punishment. Counterfeiting is big business. The question becomes, who are the better marketers- the counterfeiters or the legitimate manufacturers?

Discussion Questions

1. Who are the better marketers- counterfeiters or legitimate product producers? Why? Evaluate the marketing mix of each in terms of their strengths and weaknesses.
2. Examine the CBP campaign, “The Truth Behind Counterfeits,” (<https://www.cbp.gov/FakeGoodsRealDangers>) Based on your assessment, do you expect “The Truth Behind Counterfeits” campaign to be successful in its attempt to thwart counterfeit consumption behaviors? Why or Why not?
3. Imagine you are employed as a marketing consultant to the US Customs and Border Patrol (CBP) and charged with recommending new promotional strategies to deter consumption of counterfeit products. Based on your knowledge of marketing principles and practices, what recommendations *would you advise*?

References

- CBP, Publication # 0594-051, Intellectual Property Rights Enforcement Update (May 2017) <https://www.cbp.gov/sites/default/files/assets/documents/2017-> [Accessed 06/02/2017].
- Frontier Economics. (2017). The economic impacts of counterfeiting and piracy <https://cdn.iccwbo.org/content/uploads/sites/3/2017/02/ICC-BASCAP-Frontier-report-2016.pdf>. [Accessed 06/03/2017].
- Grossman, G. M., & Shapiro, C. (1988). Counterfeit-product trade. *American Economic Review*, 78 (March), 59-75.
- Grossman, G. M., & Shapiro, C. (1988). Foreign counterfeiting of status goods. *Quarterly Journal of Economics*, 102, 79-100.
- Lambkin, M. & Tyndall, Y. (2009). Brand counterfeiting: A marketing problem that won't go away. *Irish Marketing Review*, 20 (1), 35-46.
- Lanham Act of 1946, 15 USC §1501.
- Phillips, T. (2007). *Knockoff: The deadly trade in counterfeit goods: The true story of the world's fastest growing crime wave*. Kogan Page Publishers.
- Simone, J.T. Jr. (2006). Silk market fakes-light at the end of the tunnel: a new strategy holds promise for fighting fakes. *The China Business Review*, 16-17.
- Staake, T., & Fleisch, E. (2008). *Countering counterfeit trade: illicit market insights, best-practice strategies, and management toolbox*. Springer.
- Waitt, T. CBP campaign to inform travelers of dangers of counterfeit goods. (June 8, 2017) <https://americansecuritytoday.com/cbp-campaign-inform-travelers-dangers-counterfeit-goods/> [Accessed 06/02/2017].

Keywords: *counterfeit, consumption, consumer behavior, societal marketing, fashion, luxury brands*

Relevance to Marketing Educators, Researchers and Practitioners: This case is designed to encourage students to explore the marketing activities of counterfeit product producers and legitimate product producers. Students will examine marketing strategies of both producers and evaluate how strategies differ in terms of effectiveness. Students are asked to suggest how efforts to combat counterfeiting might be made more effective.

Author Information:

Dr. Heather Kirkwood is an Assistant Professor of Marketing at SUNY Farmingdale.

Dr. Thomas Tanner is an Assistant Professor of Marketing at Bloomsburg University of Pennsylvania.

TRACK: Case Studies