Brand Protection and Supply Chain Integrity: Methods for Counterfeit Detection, Prevention and Deterrence A Best Practices Guide

FMI / GMA Trading Partner Alliance
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Authentix ®

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Feeding Families Enriching Lives

GMA
The Association of Food, Beverage and Consumer Products Companies

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Food Marketing Institute proudly advocates on behalf of the food retail industry. FMI's U.S. members operate nearly 40,000 retail food stores and 25,000 pharmacies, representing a combined annual sales volume of almost $770 billion. Through programs in public affairs, food safety, research, education and industry relations, FMI offers resources and provides valuable benefits to more than 1,225 food retail and wholesale member companies in the United States and around the world. FMI membership covers the spectrum of diverse venues where food is sold, including single owner grocery stores, large multi-store supermarket chains and mixed retail stores. For more information, visit www.fmi.org and for information regarding the FMI foundation, visit www.fmifoundation.org.

Based in Washington, D.C., the Grocery Manufacturers Association is the voice of more than 300 leading food, beverage and consumer product companies that sustain and enhance the quality of life for hundreds of millions of people in the United States and around the globe.

Founded in 1908, GMA is an active, vocal advocate for its member companies and a trusted source of information about the industry and the products consumers rely on and enjoy every day. The association and its member companies are committed to meeting the needs of consumers through product innovation, responsible business practices and effective public policy solutions developed through a genuine partnership with policymakers and other stakeholders.

In keeping with its founding principles, GMA helps its members produce safe products through a strong and ongoing commitment to scientific research, testing and evaluation and to providing consumers with the products, tools and information they need to achieve a healthy diet and an active lifestyle. The food, beverage and consumer packaged goods industry in the United States generates sales of $2.1 trillion annually, employs 14 million workers and contributes $1 trillion in added value to the economy every year. Visit GMA online at www.gmaonline.org.

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Experts acknowledge that counterfeiting of branded goods is one of the fastest growing global industries, with related losses to manufacturers and retailers approaching $1 trillion annually.[1] The range of products being counterfeited has also expanded dramatically to the point that no product is beyond this risk. According to global independent safety science company, UL, counterfeiting has been estimated to have cost more than 750,000 U.S. jobs.[2] The manufacture and sale of counterfeit goods represent an organized attack on authorized manufacturers, retailers and consumers. The incidence of counterfeit product is increasing at both traditional retail outlets as well as among e-tailers and is not relegated to a single product category.

It is these escalating conditions that were the call to action for publishing this guide. The overarching purpose of this guide is to:

- Develop best practices for counterfeit detection, prevention and deterrence

- Recommend a response protocol when counterfeit incidents occur

- Provide benchmarks for companies to measure their efforts

While manufacturers may perceive counterfeiting to be a low probability event, the introduction of counterfeit product into the supply chain carries high risk due to the potential threat to consumer safety and brand equity. Additionally, the presence of counterfeit components or raw materials in the pre-manufacturing supply chain poses similar risks. For retailers with large numbers of SKUs on their shelves, the probability of encountering counterfeit products at the point of sale is much higher. As supply chains become increasingly global and complex, and as counterfeiters become more proficient, counterfeit goods and component materials will only become more difficult to detect, prevent and remove from the legitimate supply chain. And, the internet is making it easier than ever for counterfeit to be surreptitiously introduced into the commerce stream – negatively impacting retailers, manufacturers and ultimately their consumers. Manufacturers, retailers, third-party partners, industry groups and government officials must work together to address this growing problem.

> In 2012, a warehouse full of a counterfeit food product was discovered. The food product involved is a popular and common pantry staple. The counterfeiter had purchased the brand's regular product and was using counterfeit packaging to re-package the product and sell it as the brand's premium version. This discovery was not a matter of just a few cases – an entire warehouse of product had to be destroyed. The fact is, the discovery of just one counterfeit product is often only the "tip of the iceberg."

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[1] World Intellectual Property Organization, PR/2011/677 (February 2, 2011)(available at http://www.wipo.int/pressroom/en/articles/2011/article_0003.html)
[2] UL, (November 2013)(available at http://www.ul.com/global/eng/pages/corporate/newsroom/story-ideas/anticounterfeiting/risk/)

GMA/FMI Brand Protection Best Practices

Collecting information from surveys of manufacturers and retailers, consumer surveys, manufacturer and retailer interviews, case studies and discussions with industry experts in supply chain and risk management, this best practices guide has been developed for manufacturers and retailers to help collaboratively address the threat of counterfeit goods in the marketplace.

The surveys and interviews revealed three primary themes regarding current attitudes toward counterfeit products.

- Retailers view counterfeit products as less of a problem and have fewer related metrics than their manufacturer counterparts.

- Consumers place responsibility for counterfeit product on both retailers and manufacturers.

- Most companies are not quantifying the incidence or measuring the financial impact of counterfeit products.

Retailers and manufacturers have an opportunity to collaborate on the development of a comprehensive and systematic solution, executed by all stakeholders, to actively quantify and monitor counterfeit activities.

> A global manufacturer of personal care items recently introduced a new customer service policy to address consumer issues that involve counterfeit goods. Prior to this policy, consumers were provided a coupon for a replacement product. Under the new policy, if a consumer is injured in some way from the product, the manufacturer informs the consumer that the item was counterfeit. This interaction educates and engages consumers in the war against counterfeit products while working to preserve retailer relationships.

This guide offers best practices to help manufacturers and retailers address counterfeit goods in the marketplace. For the purposes of this guide, counterfeit goods are defined as illegitimately manufactured or adulterated goods. This guide does not address stolen goods, or products such as "replica" or "genuine imitation" items that do not otherwise violate a brand owner's rights. This best practices guide presents methods for counterfeit detection, prevention and deterrence, as well as recommendations for responding to the discovery of suspect goods. This guide allows companies to benchmark their efforts and policies related to counterfeit product against what other consumer packaged goods (CPG) companies are doing to safeguard their supply chains, protect their brand image and ensure the integrity of their customer and consumer relationships.

The scope of products covered in this guide includes CPG – food, over-the-counter medicines, pet and health and beauty care products. The guide does not cover coupons, apparel, sporting goods, automotive, electronics or other non-food items found in mass merchandisers and specialty retail.

The best practices are offered to create a safer supply chain for consumers and to help protect manufacturers' and retailers' brands. The intention is to present practices that will offer positive ROI for putting a program in place to minimize consumer risk by preventing or limiting the sale of illicit or tampered goods.

BACKGROUND

In response to growing demand for shared information and guidance, the FMI/GMA Trading Partner Alliance (TPA) began a CPG industry-wide process to develop a best practices guide – *Brand Protection and Supply Chain Integrity: Methods for Counterfeit Detection, Prevention and Deterrence.*

During the July 2012 GMA CEO Leadership Forum, members of the TPA heard perspectives from a leading CPG manufacturer and the Department of Homeland Security (DHS). The CPG manufacturer presented a case study in which counterfeit consumer product entered retail stores when the product was purchased outside of the manufacturer's secure supply chain. The incident cost retailers millions of dollars in financial loss. This counterfeit incident also damaged the brand's reputation, as consumers blamed the manufacturer for the perceived lowering of its product quality, unaware that the products in question were actually counterfeit. The number of consumer complaints received by the manufacturer regarding this brand tripled during the incident.

The CEO Leadership Forum reaffirmed a call to action to stop the flow of counterfeit consumer products in commerce and a commitment to the development of industry recommendations and best practices for manufacturers and retailers. Among the highest priorities of the members of the TPA were raising awareness and forming partnerships among manufacturers, retailers and consumers as well as the development of tools to promote collaboration for the detection, prevention and deterrence of counterfeit goods.

This best practices document provides guidance to the manufacturing and retail communities on how to minimize the financial and reputational damage associated with the counterfeiting of genuine branded products, and to reduce the introduction of counterfeit goods into the global supply chain.

THE SUPPLY CHAIN: WHERE IT IS VULNERABLE TO INFILTRATION

As products move through the manufacturing and distribution process, numerous channels are involved – each presenting an opportunity for illegitimate / counterfeit product to enter the supply chain and find its way to consumers – consumers who assume a level of quality and safety when they buy brands they know from retailers they trust.

While some supply chain paths are more secure than others, industry experts and survey respondents agree that the opportunity for counterfeit product to enter the system exists at every point along the supply chain.

The following is an illustration of the legitimate supply chain and the parallel counterfeit supply chain. The reality is that leakage and counterfeit entry can happen at nearly any point. While there are often interactions between the legitimate and the counterfeit supply chain, the two can also be entirely independent of one another. At the same time, aspects of legitimate supply chain can bleed into the counterfeit supply chain. Another reality is that counterfeits can be introduced in the delivery of authentic product. Regardless of method of introduction, the common element remains: *all paths lead to the consumer.*

LEGITIMATE SUPPLY CHAIN
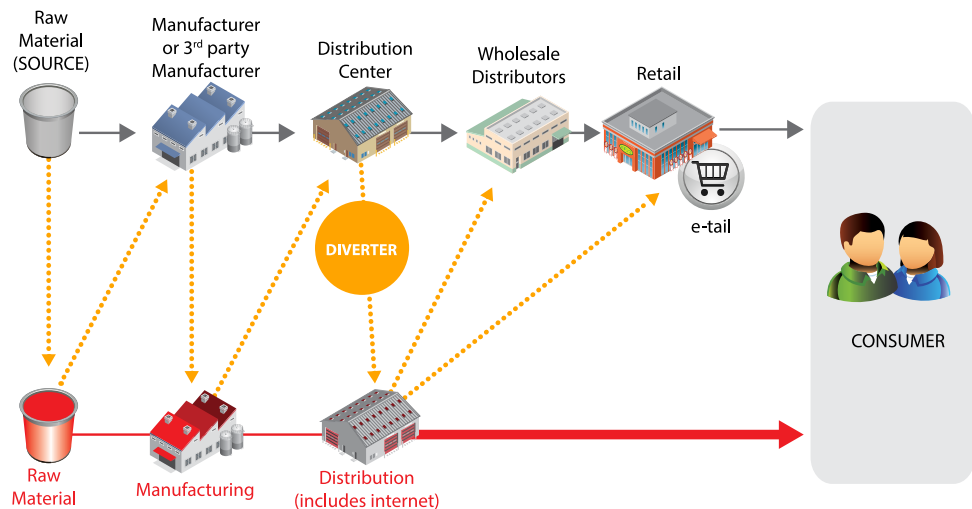
COUNTERFEIT SUPPLY CHAIN

In the supply chain, counterfeit goods are defined as adulterated and/or illegitimately manufactured goods by someone other than the brand owner or third-party operating on behalf of the brand owner.

Following are the categories of participants (some knowingly, some unaware) that can contribute to the counterfeit supply chain.

Suppliers are businesses that sell raw materials and parts for products and the related packaging to manufacturers.

Manufacturers are businesses that produce goods for the consumer.

Wholesalers are middlemen, a person or business that buys large quantities of products and resells to its distributors rather than to the ultimate consumer.

THE SUPPLY CHAIN: WHERE IT IS VULNERABLE TO INFILTRATION

Distributors are firms that sell or deliver merchandise to retail stores.

Retailers are the stores selling merchandise or services directly to the public.

Diverters can be authorized or unauthorized buyers or sellers of manufacturers' (brand owner) products. In the consumer goods market these diverters are typically the middle person who may buy quantities of products from manufacturers, retailers and wholesalers and sells the inventory as a secondary source for distribution to retailers. The "diversion" of authorized branded products to unauthorized geographic regions or retail outlets is typically described as the sale of "grey goods," which are distinct from counterfeits that were never authorized by the brand owner. The issues associated with grey goods and diversion are beyond the scope of this guide. However, diverters, by way of their function as a source of legitimate goods (like overruns, closeouts, etc.) to the secondary retail market, are also an important potential entry point for counterfeit goods.
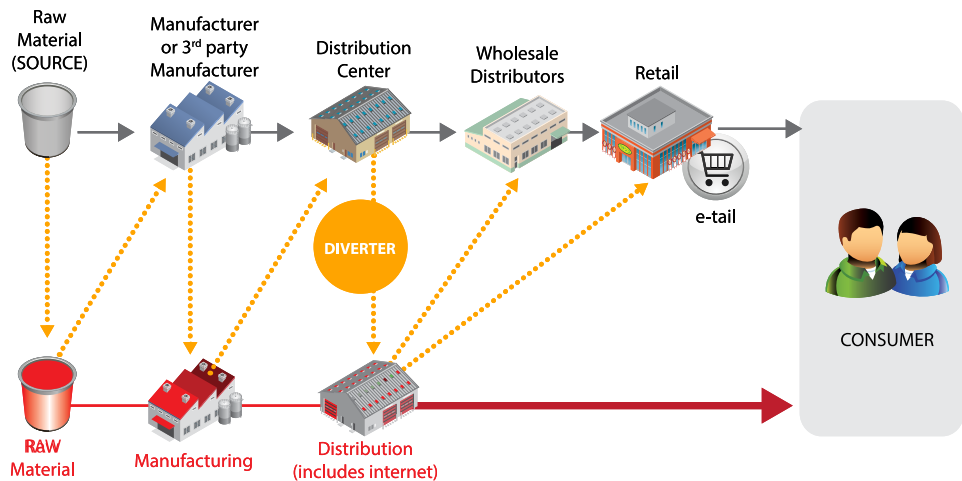
Counterfeiters are organizations that create and distribute inauthentic or adulterated product for profit.

To illustrate the complexity and the potential risks of counterfeit product within the supply chain, four scenarios have been identified. Each scenario includes a description and a case in point study of a real situation that occurred in the marketplace.

Scenario 1: COUNTERFEITER → Consumer

As illustrated in the supply chain graphic, the fastest route from the counterfeiter to the consumer is direct online sales. E-tailing sites go live and compete for retail dollars every day. Legitimate online retailers are at risk of losing shoppers to e-tailers offering counterfeit product at a lower price. With the power of the internet behind them, counterfeiters can sell illegitimate product virtually across the globe. Depending on the product counterfeited, the practice puts consumers directly at risk, especially if they purchase counterfeit or adulterated products that are applied to or ingested into the body, such as pharmaceuticals, cosmetics and food products.

LEGITIMATE SUPPLY CHAIN

Raw Material (SOURCE) → Manufacturer or 3rd party Manufacturer → Distribution Center → Wholesale Distributors → Retail → e-tail → CONSUMER

DIVERTER

RAW Material → Manufacturing → Distribution (includes internet)

COUNTERFEIT SUPPLY CHAIN

THE SUPPLY CHAIN: WHERE IT IS VULNERABLE TO INFILTRATION

Case in Point

Online: Selling Counterfeit Directly to the Consumer

Silk Road was an online black market that began in February 2011 targeted at consumers. It operated on hidden servers so online users could browse it anonymously and securely without potential for traffic-monitoring detection. The site grew quickly and, with little advertising other than word of mouth, soon generated more business than many of the illegitimate online pharmacies that were drumming up business through spam emails. Silk Road offered a mix of legal and illegal products ranging from cigarettes to counterfeit pharmaceuticals and illicit drugs to even more nefarious services such as prostitution and "hit men."

In October 2013, the FBI shut down Silk Road and arrested Ross William Ulbricht, suspected to be the site's founder and chief operator, on charges of alleged murder for hire and narcotics trafficking violation. In less than three years, Silk Road is believed to have completed transactions worth $1.2 billion, demonstrating that there is a world of consumers who are willing to risk receiving illegitimate product in order to receive a lower price. As of November 2013, it was reported that a successor to Silk Road had re-opened for business.

Scenario 2: SUPPLIER AS COUNTERFEITER → Retailer → Consumer

Suppliers provide materials to manufacturers who create their branded products and sell them directly to retailers (which is a policy of many large manufacturers). Intuitively, this is considered the safest path to consumers because there are fewer touch points. However, counterfeit product can reach consumers through product that is sent directly to retailers. There is potential for a supplier to mix in counterfeit product with legitimate product in a manner that is difficult to spot without rigorous checks and which easily can find its way to the retail shelf.

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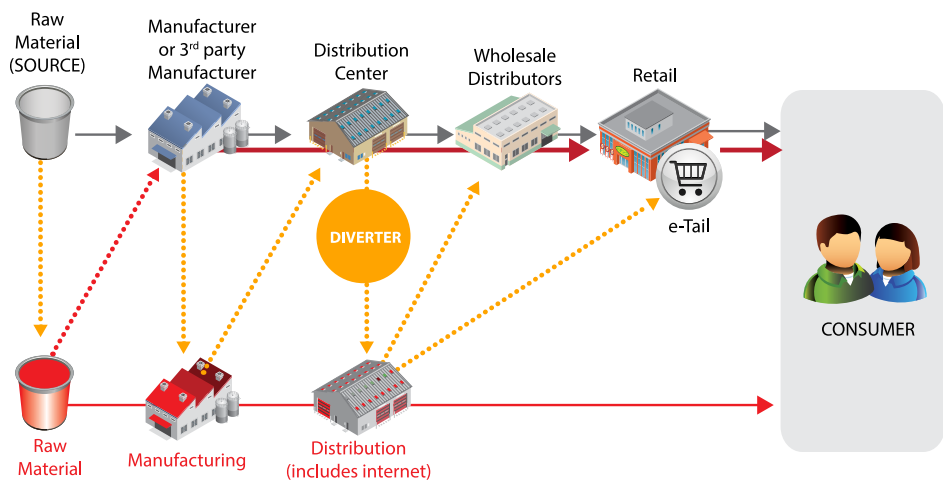
COUNTERFEIT SUPPLY CHAIN

Brand Protection and Supply Chain Integrity

THE SUPPLY CHAIN: WHERE IT IS VULNERABLE TO INFILTRATION

Case in Point

Counterfeit Sold Directly to Retailer

A Chinese chemical factory that manufactured glycerin for use in cough syrups and other ingestible products (including drugs, food and toothpaste), was discovered to be shipping a less expensive substitute syrup in order to increase its profits. That substitute syrup was actually diethylene glycol, an extremely poisonous ingredient often found in automotive antifreeze coolants. This toxic syrup has been part of at least eight mass poisonings in the last 25 years.

In the case of the tainted cough syrup, the counterfeit component ingredient moved through three distributors on three different continents. While the syrup was labeled as 99.5 percent pure glycerin, the shipping documents were altered at each stop from China to Spain to Panama, concealing the name of the manufacturer and source of the product. The original certificate of analysis was also translated and the company manufacturer name was changed at each stop, making the product's origins difficult to trace.

The barrels of counterfeit component chemicals ingredient eventually landed in the hands of a broker who held the product for two years, changed the expiration date and failed to test the product. The counterfeit component ingredient was sold to the cough syrup manufacturer, which was a government entity. The cough syrup manufacturer also performed the function of the retailer, distributing the product directly to citizens through clinics and hospitals. Three hundred and sixty-five people died as a result of the tainted cough syrup.

As the crisis unfolded, the United States Centers for Disease Control and Prevention tested the product in an effort to contain the issue and discovered diethylene glycol in the syrup. The import company that sold the counterfeit component ingredient to the government cough syrup manufacturer was held accountable, but the Chinese pipeline was harder to infiltrate. The Chinese government's investigation concluded that because the factory "glycerin" producer and the exporter were not certified in pharmaceuticals, it had no jurisdiction to prosecute and found no evidence that the law had been broken.

Scenario 3: COUNTERFEITER → Distributor → Retailer → Consumer

Rather than buying direct from the manufacturer, some retailers will either purchase their entire product line from a single distributor or will purchase from a limited number of approved distributors. In this scenario, the retailer must depend on the distributor to sell them legitimate product. Unfortunately, counterfeit product can also find its way to the retailer by entering the supply chain through distributors. A distributor can intentionally or unintentionally receive counterfeit goods, and when mixed with legitimate product, it is difficult for retailers to detect.

THE SUPPLY CHAIN: WHERE IT IS VULNERABLE TO INFILTRATION

LEGITIMATE SUPPLY CHAIN
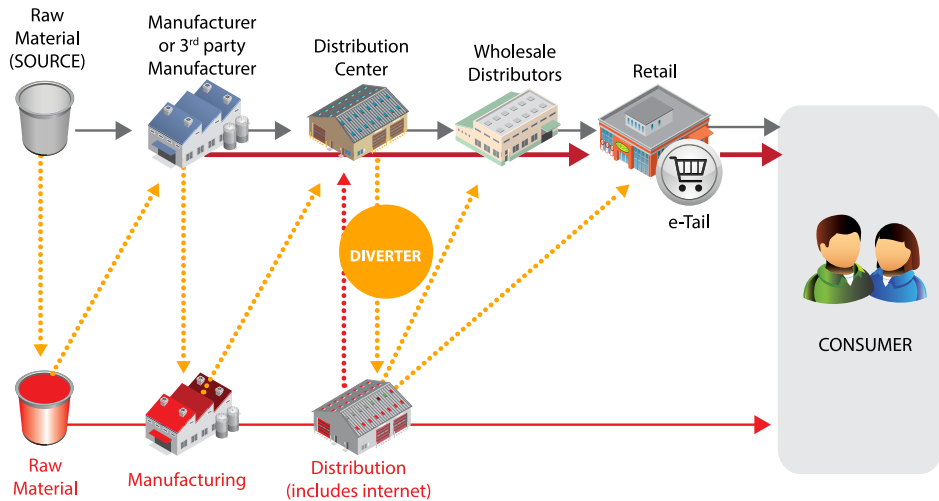
COUNTERFEIT SUPPLY CHAIN

Case in Point

Counterfeiter to Distributor

After receiving consumer complaints about failing product, an over-the counter (OTC) medical testing product manufacturer discovered multiple counterfeit products in several territories. A significant amount of unauthorized product was found to be moving through distributors, along with a high rate of re-importation in a variety of regions with high corruption rates and minimal legal control. Retailers were inadvertently selling ineffective products to consumers.

The manufacturer enlisted a third-party security company to develop a program that was compatible with already existing programs. Four important steps were taken to combat the unauthorized product:

- Late stage customization to add security post production
- Tamper-evident security labels with covert and forensic features
- Labels supplied from a secure, third-party print facility
- Labels printed with region-specific information to meet local regulations

The manufacturer gained control of the unauthorized products in the supply chain by instituting security features and an inspection and compliance program that ensured product authenticity and complied with regional regulations. The manufacturer is extending the lessons learned from the medical testing product authentication process to its other product lines in order to continue improving the safety of its supply chain.

THE SUPPLY CHAIN: WHERE IT IS VULNERABLE TO INFILTRATION

Scenario 4: COUNTERFEITER → Diverters → Retailer → Consumer

Free enterprise and trade agreements such as NAFTA open doors and ports to counterfeit product every day. Otherwise authorized branded products are often sold by diverters on the secondary market, despite contractual, regulatory or geographic restrictions, where lower price points entice buyers to use sources other than the authorized manufacturer. Counterfeit product also moves directly through the counterfeit supply chain to a diverter who is selling directly to a retailer. Diverters often introduce counterfeit products at a reduced cost with a high profit margin, creating a purchasing opportunity that is attractive to retailers.

LEGITIMATE SUPPLY CHAIN
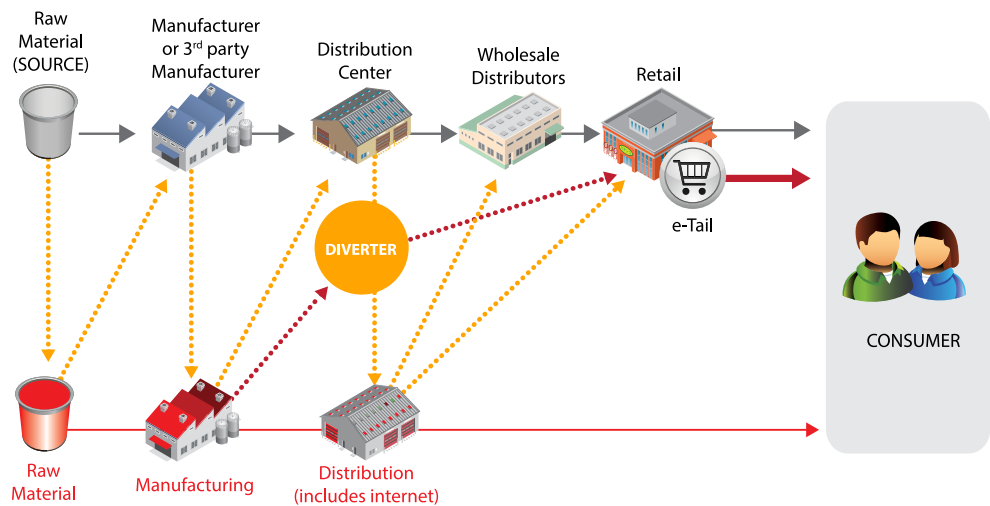
COUNTERFEIT SUPPLY CHAIN

Case in Point

Selling Counterfeit is Illegal

A manufacturer of health and beauty products received a consumer complaint about its razor blades. The manufacturer began an investigation and discovered that a large regional retail chain was selling counterfeit razor blades in its stores. The retailer, forced to pull the counterfeit product, realized financial losses as a result of having purchased the product.

The product was bought from a small diverter who in turn had sold to another large diverter, who sold the product to several national retail chains. Federal investigators from the Department of Homeland Security became involved and arrested several of the participants. Both of the diverters did go out of business, but the large diverter has since re-opened under another business name.

The process to clean up and remove the counterfeit product from the supply chain was arduous. Product – both genuine and counterfeit – was pulled from thousands of stores and distribution centers and returned to a third-party vendor to be sorted in order to determine counterfeit product from authentic product. Any product identified to be counterfeit was then sequestered and sent to a single distribution center until the legal case was closed and product could be destroyed. Because the product was counterfeit, witnessed destruction was required. Even for the genuine product, the

manufacturer incurred additional costs because of the re-distribution necessary to get the authentic razor blades back out onto retail shelves.

The president of the diverter was found guilty of distributing counterfeit razor blades that had been obtained from multiple sources, including an importer in New Jersey. The case exposed connections to organized retail crime. The razor blades had been sold as legitimate goods to major retail chains and to two wholesalers in the U.S. The two wholesalers demanded refunds for the product once it was discovered to be counterfeit.

The diverter's president is currently serving a two-and-a-half-year prison sentence for defrauding victims of millions of dollars and for placing the public at risk by introducing counterfeit razor blades into the commerce stream. One retailer noted that when counterfeit product was discovered, the retailer's procurement department ceased purchasing razor blades from diverters. Consequently, when purchases of razor blades from diverters stopped, retail shrinkage resulting from razor blades decreased significantly.

Summary

As globalization continues, the supply chain becomes more complex, increasing the opportunity for counterfeit goods to enter the legitimate supply chain and threatening consumer safety and brand reputation. Global expansion drives parallel import activity in many emerging markets and presents more opportunities for manufacturers to lose control of the chain of custody, product traceability, commercial registration and brand development. Counterfeiters are finding strong footholds in countries with limited legal infrastructure, creating additional avenues for them to enter the supply chain beyond the four scenarios outlined above. If manufacturers and retailers are to ensure a comprehensive anti-counterfeit program, every path identified along the supply chain should be considered a potential entry point for counterfeit product.

With so many opportunities for counterfeit components or products to reach the consumer, responsible trading partners must develop collaborative initiatives to detect, prevent and deter counterfeit products. The best approach is to have formal guidelines in place to prevent counterfeit from entering the supply chain and to be positioned to identify and address it if or when it does occur.
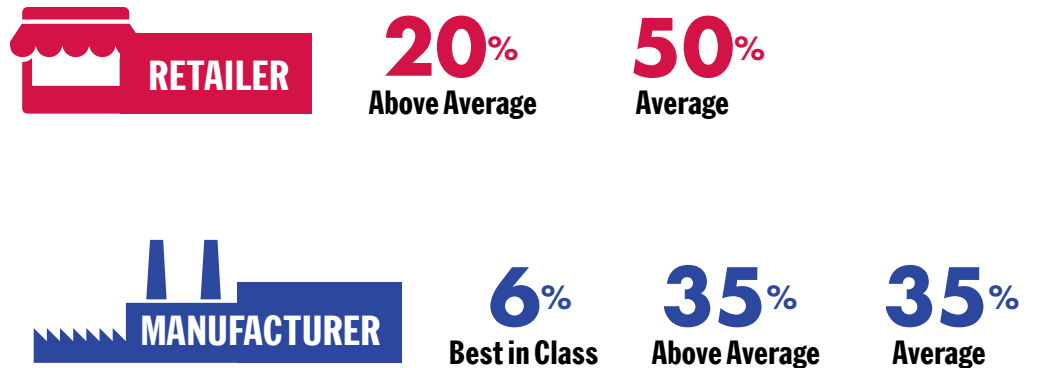
RECOMMENDED BEST PRACTICES AND INDUSTRY BENCHMARKING

Best practice guidelines can assist trading partners as they collaborate to detect, prevent and deter counterfeit products. The best practice guidelines, in conjunction with the survey results, provide a benchmarking tool for companies to assess their anti-counterfeit practices. The guidelines also include recommendations for retailers and manufacturers on how to engage people, improve processes and utilize technology to develop an effective brand protection program that detects, prevents and deters counterfeit product.

Interestingly, survey results indicate that overall, both retailers and manufacturers rate their programs as average or better in comparison to their peers. Of the retailers surveyed, 70 percent rated themselves as average or better than average against industry peers at implementing supply chain integrity measures and protecting retail brand assets. Yet, of those retailers who responded, zero percent had metrics to monitor counterfeit, diverted or unauthorized branded product.

More than 75 percent of manufacturer respondents rated their organizations as at least average as compared to their peers when implementing brand protection and supply chain integrity measures. In contrast to retailers, 65 percent of those manufacturers surveyed said they are proactive and have active anti-counterfeit plans in place.

Survey question: How do you rate your company against industry peers at implementing supply chain integrity measures and protecting your retail brand(s) assets?

RETAILER

20% Above Average

50% Average

MANUFACTURER

6% Best in Class

35% Above Average

35% Average

RECOMMENDED BEST PRACTICES AND INDUSTRY BENCHMARKING

Survey Question: How actively is your company securing the supply chain and protecting brands? This includes organization structure changes, technology deployment, process changes, etc.

MANUFACTURER

65%	23%	12%
Proactive	**Reactive**	**No Plans**
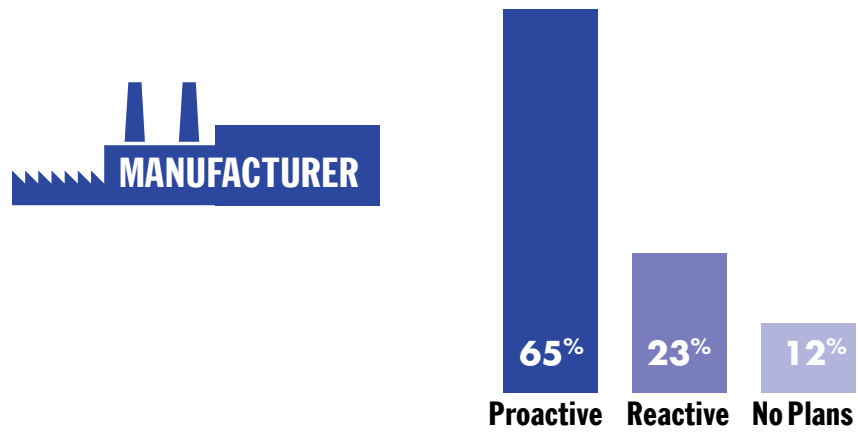
The best practices are grouped by methods for detection, prevention and deterrence. The definitions are as follows:

- Detection: discovery and authentication

- Prevention: hinder, obstruct, impede

- Deterrence: punishment or threat of punishment

The summary chart lists all the best practices and their role in detection, prevention and deterrence. Following the chart, more detailed information is provided on each best practice. The order of the best practices aligns with the supply chain flow.

RECOMMENDED BEST PRACTICES AND INDUSTRY BENCHMARKING

	Detection	Prevention	Deterrence
Develop & implement a counterfeit risk assessment tool	✓	✓	✓
Develop global counterfeit protocol	✓	✓	✓
Create a dedicated group that has expertise in 4 key areas: Law enforcement, supply chain, packaging technology and legal	✓	✓	✓
Build anti-counterfeit and brand protection into product design process with the goal to employ in-product and on-package authentication technology	✓	✓	✓
Contract with a single security solution provider. If the solution includes packaging, then purchase packaging and packaging components from a single packaging supplier		✓	
If manufacturing is outsourced, institute a stringent vetting process		✓	✓
Monitor sales practices		✓	
Include anti-counterfeiting audits in corporate risk management and audit programs		✓	✓
Undertake market monitoring measures	✓		✓
Commit to a program with tactical components	✓	✓	✓
Develop a well-defined process for purchasing from diverters; maintain control at the corporate or regional level		✓	
Implement a strong verification and due diligence process for selection of diverters		✓	
Employ security measures for material oversight and reconciliation at warehouses and distribution centers	✓	✓	
Educate retailers through a product awareness program	✓	✓	
Develop a question tree specific to counterfeit detection for consumer call centers	✓		
Develop a plan for the disposition of overstock, seasonal and unsaleable products		✓	
Create a counterfeit playbook: A counterfeit playbook defines the steps to take if / when counterfeit product is discovered	✓	✓	✓
Involve the brand protection community	✓	✓	✓

RECOMMENDED BEST PRACTICES AND INDUSTRY BENCHMARKING

Manufacturers and Retailers

Develop and implement a counterfeit risk assessment tool

Prior to implementing an anti-counterfeit plan, an important first step is to assess the potential impact and the risk environment. An assessment tool that establishes risk categories and the associated level of risk can assist in this process. Categories can include revenue loss, unnecessary costs, liability and brand erosion. This process requires the use of all information available and the application of analytical, anecdotal and intuitive reasoning. The result enables the company to make better informed decisions as to where resources should be focused. Developing and implementing a risk assessment tool is a best practice that both retailers and manufacturers should adopt. There will be different inputs required of each; however, the end result is the same for both – minimized risk and enhanced ROI.

The risk assessment tool for manufacturers is adapted from a detailed product-level risk assessment tool that Authentix, co-author of this paper, has used and implemented successfully over many years. The risk assessment tool for retailers is the resulting compilation of conversations and ideas generated from retailer interviews and the TPA Brand Protection Working Group. Examples can be found in Appendix II.

Manufacturers and Retailers

Develop a global counterfeit protocol

Both retailers and manufacturers should develop a global protocol to ensure common goals and practices across the company. The protocol should include both a communication plan and an execution plan to ensure proper notification and handling of counterfeit product incidents.
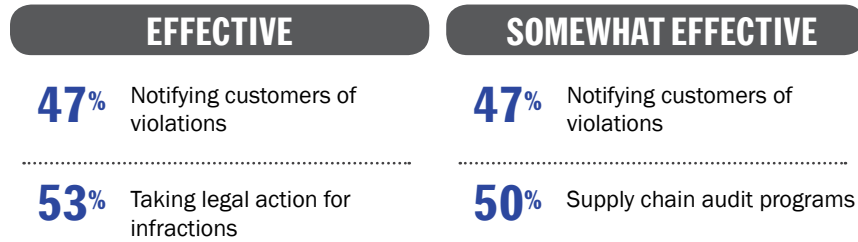
The plan should include:

1. Notifications to all stakeholders, legal entities and law enforcement – both domestic and abroad

2. Response management to withdraw and isolate product

3. Preparation of consumer call centers

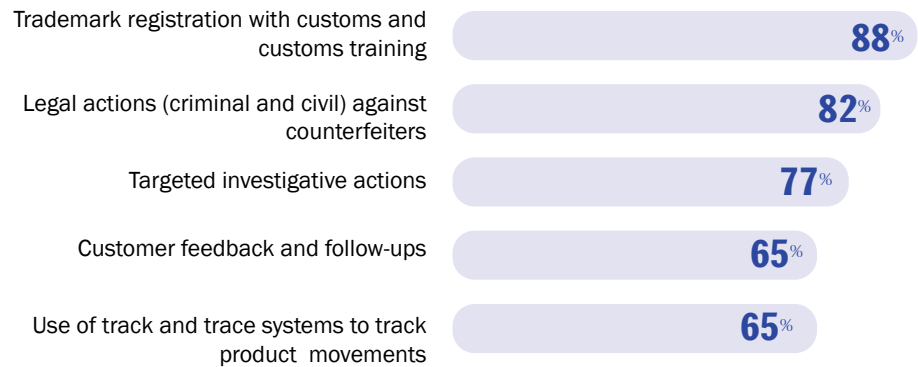4. Returned product processing and destruction

Once counterfeit product is detected, authorities should be informed of the breadth and scope of counterfeit activity. Other stakeholders to include in the communications plan are retailers, distributors, law enforcement and regulatory agencies. Retailers and manufacturers should collaborate and share information to ensure that consumers are protected and the legal case for authorities to pursue and prosecute counterfeiters is strong. This best practice was developed from manufacturer and retailer interviews, and input from the TPA Brand Protection Working Group.

RECOMMENDED BEST PRACTICES AND INDUSTRY BENCHMARKING

Survey Question: Referring to deterrence and response, what methods does your company find most effective in combating Counterfeiting?

MANUFACTURER

EFFECTIVE		SOMEWHAT EFFECTIVE	
47%	Notifying customers of violations	**47**%	Notifying customers of violations
53%	Taking legal action for infractions	**50**%	Supply chain audit programs

Manufacturer's Survey Question: What techniques and tactics do you employ today to protect your products?

Trademark registration with customs and customs training	**88**%
Legal actions (criminal and civil) against counterfeiters	**82**%
Targeted investigative actions	**77**%
Customer feedback and follow-ups	**65**%
Use of track and trace systems to track product movements	**65**%

RECOMMENDED BEST PRACTICES AND INDUSTRY BENCHMARKING

Manufacturers and Retailers

Create a dedicated group that has expertise in four key areas: Law enforcement, supply chain, packaging technology and legal

While many companies may dedicate one person and then draw resources from other areas as needs arise, doing so is not considered a best-in-class approach. Rather, those in the brand protection group should be 100 percent dedicated to the cause. This best practice was highlighted and detailed during interviews with industry experts and supported by the TPA Brand Protection Working Group. Experts also agree that the team outlined below should report into the business side of an organization, rather than the legal function, for example. The team should include resources with the following backgrounds:

- Law enforcement background with relevant agencies such as Immigration and Customs Enforcement (ICE), Customs and Border Protection (CBP), Homeland Security Investigations (HSI), Department of Justice (DOJ), Federal Bureau of Investigation (FBI) and Department of Homeland Security (DHS), not physical or corporate security. Team members should be trained on how to investigate actual crimes.

- Supply chain associates who understand how products are made and distributed to the end use consumer. To lock down a supply chain, there must be an understanding of where products are made, which wholesalers handle which product and whether the product is contract manufactured, co-packed or distributed by a third party or in-house. In manufacturer organizations, this should be where anti-counterfeit operations report.

- Packaging technology. Because packaging is a critical element for brand protection, it is important for this group to include resources who understand packaging technology specifications, authentication requirements, equipment standards and regulatory issues.

- Legal. Legal expertise is needed to investigate incidents, preserve deterrence options and to prosecute offenders or seek civil damages. Additionally, proactive legal work prior to an incident can improve available remedies and sustain brand protection goals. For retailers, there should be an Organized Retail Crime group separate from loss prevention because the groups have two different focuses. Organized retail crime groups are focused on law enforcement, while loss prevention groups are focused primarily on store-level operations.

Manufacturers and Retailers with Private Label Products

Build anti-counterfeit and brand protection elements into the product design process with the goal to employ in-product and on-package authentication technology

As a company-wide strategy, authentication must go beyond packaging. Authentication practices based on packaging alone can be compromised. The most secure option is to include authentication technology in the product design process. The authentication design components will inform the procurement process when vetting vendors. Vetting vendors is a precursor to inserting a security feature in the product design. This information should be shared only with pre-vetted suppliers. It is also critical that Quality Assurance (QA) ensures that procured materials meet brand protection design requirements.

RECOMMENDED BEST PRACTICES AND INDUSTRY BENCHMARKING

Brand protection program effectiveness should be assessed periodically and technology or security features may have to be altered every three to five years to preserve the integrity of the authentication process. Anti-counterfeit measures should be augmented by active field monitoring, and track and trace measures, as well as a rigorous audit program to ensure compliance with brand protection and authentication measures throughout the supply chain. Because changes in packaging can take up to three years to effect, the previously mentioned dedicated brand protection team should be part of this process.

This best practice is practiced and endorsed by branded manufacturers and industry experts.

Benchmarking Statistics

Forty-four (44) percent of retailers responding to this survey indicated that overt packaging protection and verification instructions provided on products at high risk of counterfeit were somewhat effective.

The authentication and tracking technology most used includes barcodes, RFID and unique IDs (59 percent); these methods were used primarily on the consumer goods unit by 79 percent of respondents. However, almost 71 percent used a tracking technology on cartons, shippers and overwraps, with 43 percent placing it on the unit load or pallet.

Of responding manufacturers, 73 percent continually review technologies for authentication / tracking applications, while 27 percent review only when technology is compromised. As expected, the trend appears to be an increased number of products using authentication and tracking technologies (60 percent).

Manufacturing companies also indicated benefits from authentication and tracking technologies, with 77 percent stating that customer trust had increased through better brand integrity and 69 percent acknowledging consumer safety as a benefit.

For tracking technologies, 50 percent of responding manufacturers stated that improvements in customer trust achieved through better brand integrity was the top benefit, as was a better understanding of product movement in the distribution chain.

Definition of terms

Tracking: The addition of a feature to the product or packaging that provides information about its origin product.

A traceability system: Records and transmits information on particular product attributes as it travels through the supply chain to provide information at any specific point.
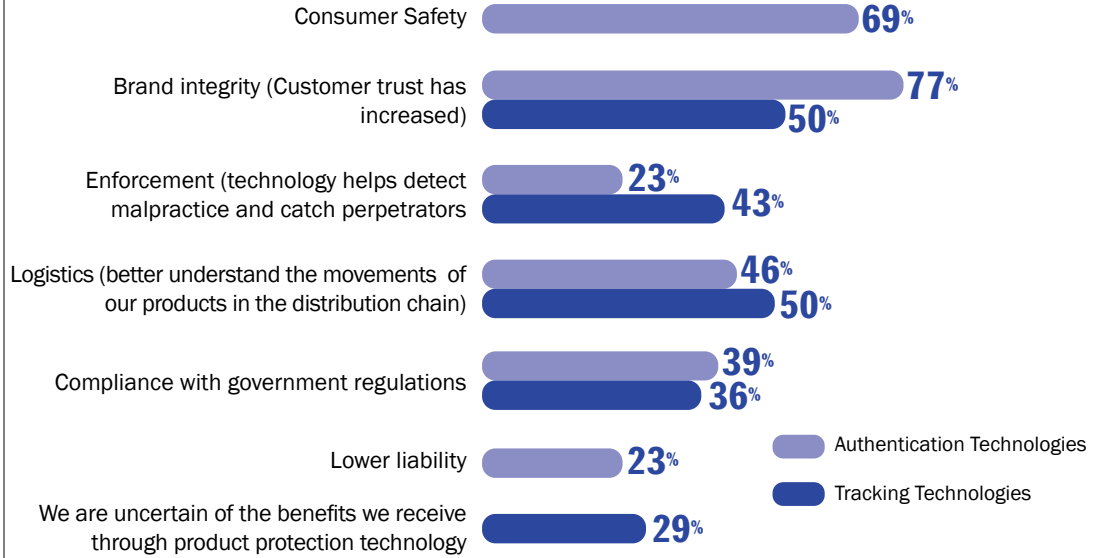
Authentication: Procedures to inspect, audit or verify the source and authenticity of branded products or components at one or more points along the supply chain
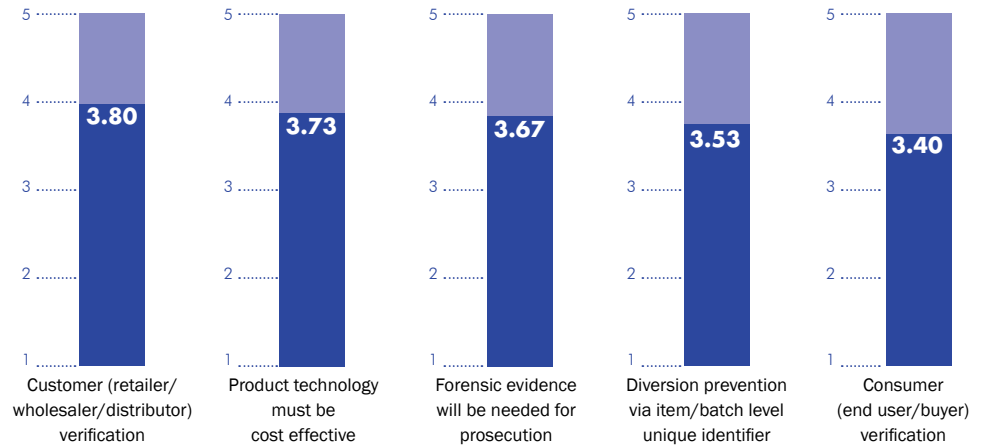
RECOMMENDED BEST PRACTICES AND INDUSTRY BENCHMARKING

MANUFACTURER

Survey Question: What benefits have you received from the use of authentication/ tracking technologies?

Consumer Safety **69%**

Brand integrity (Customer trust has increased) **77%** / **50%**

Enforcement (technology helps detect malpractice and catch perpetrators **23%** / **43%**

Logistics (better understand the movements of our products in the distribution chain) **46%** / **50%**

Compliance with government regulations **39%** / **36%**

Lower liability **23%**

We are uncertain of the benefits we receive through product protection technology **29%**

Authentication Technologies
Tracking Technologies

MANUFACTURER

Survey Question: When setting the specific objectives of your brand protection program(s), how important were the following attributes considered to be during program design? Please rate the following objectives from 5 very important to 1 not at all important.

Customer (retailer/ wholesaler/distributor) verification	Product technology must be cost effective	Forensic evidence will be needed for prosecution	Diversion prevention via item/batch level unique identifier	Consumer (end user/buyer) verification
3.80	3.73	3.67	3.53	3.40

Manufacturers

Contract with a single security solution provider by product or by brand. If the solution includes packaging, then purchase packaging and packaging components from a single packaging supplier

Contracting with a single security solution provider and purchasing from a single packaging and components supplier are two of the strongest steps to prevent counterfeiting. A closely controlled network of people that maintains confidentiality, security that understands a product, brand and company's overall anti-counterfeit policies is critical. Even with a smaller network of members, audit processes must be put in place to monitor production and consumption of security components. The dedicated brand protection team should be part of this process and ensure this is part of a company-wide strategy.

The packaging supplier contract should define clearly that samples are to be collected from every lot produced and that they should be sent to the security solution provider and archived. Auditing standards should also be established and communicated to all parties. Both the packaging supplier and the security solution provider should be audited twice per year by the brand owner. The audit should include reviewing records as to what was produced by the packaging supplier and what was sent to the security solution provider. The waste rate associated with the packaging supplier's output should be monitored as well.

This best practice is practiced and endorsed by branded manufacturers and industry experts.

Manufacturers and Retailers with Private Label

If manufacturing is outsourced, institute a stringent vetting process

Nearly 94 percent of manufacturers surveyed utilize processes that are both in-sourced and outsourced. If outsourced, the vetting process should include validation of certifications and designations, reference checks, gap analyses of vendor submissions, personal meetings, assessment of quality control and security procedures, and thorough inspections and site visits. No supplier should ever be considered completely vetted when manufacturing processes are outsourced. Instead, continuous monitoring of suppliers and ongoing random and direct sampling should occur to identify gaps. There should be no fixed schedule for such checks. Programs should be adjusted as needed and modified as required. This best practice is endorsed by risk management professionals.

RECOMMENDED BEST PRACTICES AND INDUSTRY BENCHMARKING

Manufacturers and Retailers

Include right-to-audit clauses as part of all contracting processes

The contracting processes extend from product manufacturing to final disposition. This best practice is endorsed by risk management professionals.

> Sample: Audits. Contractor shall permit Company Personnel to inspect Contractor's premises and methods of operation in connection with Services at any time during normal business hours. Contractor shall keep and maintain records which accurately reflect its operations according to industry standards, generally accepted accounting practices, and all applicable terms of the Agreement. Company may review such records at any reasonable time. Contractor shall retain such records for at least five years plus the current year from the date of creation or until any on-going audits have been settled, if longer. At Company's sole option, audits may be conducted (i) by Company or its third party designee upon Contractor's prior written consent, such consent not to be unreasonably withheld, or (ii) at Contractor's offices or at a different location specified by Company, in which latter case Contractor must deliver, at Company's sole cost and expense, copies of all applicable records to that location. Company and Contractor will each bear their own costs associated with the audits.

Manufacturers

Monitor sales practices

While diversion is recognized as an acceptable supply chain and economic buying practice, retailers responding to the survey indicated that "sales loading" is a practice that can lead to increased diversion and possible introduction of counterfeit product into the supply chain. "Sales loading" is a practice that consists of shipping more product than historically sold because of discounted pricing. This practice is most common at the end of a quarter or month; the additional product inventory may then be sold to diverters. The reason for concern is that diverters may take legitimate product and then knowingly or unknowingly mix it with counterfeit product from other sources to sell directly to retailers.

Sales analysis can be one of the first indicators that diversion has occurred, especially if wholesale shipments do not adequately match consumption or retail consumer sales. Manufacturers should analyze each customer's past and present purchase patterns and perform gap analyses on shipments versus consumer sales. The sales organization should be made aware of the issues that sales loading can cause for members of the supply chain. It is important to require sales teams to have the proper reporting protocol and documentation. Sales personnel should be trained to report information collected in the field, as their discoveries can be early indicators of both diversion and counterfeit.

This best practice was detailed through interviews with manufacturers and retailers and approved by the TPA Brand Protection Working Group.

RECOMMENDED BEST PRACTICES AND INDUSTRY BENCHMARKING

Manufacturers and Retailers

Include anti-counterfeiting audits in corporate risk management and audit programs

Audits of partners throughout the entire supply chain should be performed by internal auditors as well as by third parties. Frequency of audits is generally based on outcomes of previous audits and may incorporate both announced and unannounced audits. Initially, audits may be scheduled on an annual basis with the frequency being either increased or decreased based on the findings. Areas of particular importance would include compliance with supply and distribution agreements, employee background checks, access control and security camera coverage around warehouse and shipping areas, processes for handling and accountability of security devices or other design components used for authentication, tracking or traceability, processes for handling returned merchandise, and processes for handling merchandise that is damaged, expired or otherwise unsaleable.

At a minimum, the audits should check for any authentication measures, package quality, shipment quality and shipping integrity. This best practice is endorsed by risk management professionals and product security industry experts.

Manufacturers

Undertake market monitoring measures

Undertake market monitoring measures. Market monitoring measures include verifying item location and authenticity by checking tracking and authentication information such as lot codes, unique IDs, overt or covert security information and other analytical data that may be associated with the product or packaging. Track and trace measures should be followed to accurately understand movement and weaknesses in the supply chain. Solutions such as the Next Generation Product Identifier (NGPI) data bar that contain detailed information to the SKU level to assist both manufacturers and retailers will play an important role in increasing track and trace measures.

According to the survey, 69 percent of manufacturers that responded used third-party audits of supply chain partners. Unit level should be traced on product because adulterated product is often sold in smaller lots / units in order to gain entry to the supply chain. If covert technology (consumer cannot recognize) is used, third-party service providers or corporate security personnel should monitor and authenticate the handling or control of such technology at key points in the supply chain. Funding technology is pointless without a commitment to active monitoring programs. The above best practice is derived from interviews with manufacturers and product security industry experts.

RECOMMENDED BEST PRACTICES AND INDUSTRY BENCHMARKING

Case in Point

Adulterated Private Label Goods

While following up on a consumer complaint, a retailer found that substandard materials had been used by an overseas manufacturer to produce a private label household product. When the adulterated product did not perform to consumer expectations or internal testing standards, an investigation of the manufacturing plant uncovered that cheaper, substandard materials had been substituted in the bill of materials to increase the profit margin of the manufacturing facility.

Multiple port authorities were contacted to halt shipments. The Consumer Product Safety Commission was notified of the issue and also intervened by stopping shipments at the ports of entry. Unfortunately, the affected cargo containers each held multiple products and were held in customs in total so that the defective product could be confiscated. Although the manufacturer lost a significant portion of its business, the retailer also had to issue a recall and suffered significant declines in public trust of its private label products.
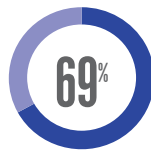
Manufacturers

Commit to a program with tactical components

This can include internet monitoring, secondary / tertiary market surveillance, supply chain audits, port inspections in conjunction with DHS and formation of an internal team with cross-functional resources and executive support. Re-importation is an area with many associated dangers and risks. This is a common entry point for substandard and / or counterfeit goods. Correcting commercial practices and creating logical pricing corridors in geographically logical areas can be a deterrent. Supplementing the Department of Homeland Security inspections with additional sampling at ports, combined with market surveillance in susceptible areas such as port cities, can help identify activity. This best practice was detailed during interviews with manufacturers.
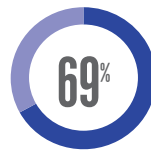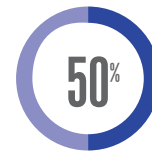
Your brand protection program includes:
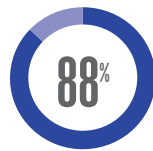
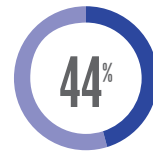| 88%	69%	69%	50%	44%
Product traceability system	Internal audits of supply chain partners	3rd party audits of supply chain partners	Direct distribution monitoring methods	Specific countries are monitored differently

RECOMMENDED BEST PRACTICES AND INDUSTRY BENCHMARKING

Retailers

Develop a well-defined process for purchasing from diverters; maintain control at the corporate or regional level

Purchase decisions at the local level can lead to the introduction of adulterated products into the retail supply chain. At the corporate level, a best practice should include a single authorized buyer who buys only a specific, vetted list of low counterfeit risk products from a predefined list of diverters with the purchase authorized by one designated person. A controversial, but strongly endorsed, best practice component would be to eliminate any and all buyer incentives related to purchasing from diverters. Fifty-five percent of retailers have written requirements concerning diverters in purchasing agreements. Part of this practice should include a list of products that should never be purchased from diverters, as well as a prohibition of purchasing "brown boxes" of goods. Brown box goods are typically less than full-case repackaged goods in an unmarked brown box with all elements of identification removed. Products in original manufacturer cases should have unbroken unaltered seals. The above retailer best practice is the outcome of detailed retailer interviews and recommendations from the TPA Brand Protection Working Group.

Retailers

Implement a strong verification and due diligence process for the selection of diverters

Fifty-six percent of retailers who responded to the survey indicated they purchased inventory from diverters. The list of approved diverters should be vetted thoroughly. According to the retailer interviews, a strong verification process and due diligence process should include:

- Researching diverter's company ownership and management
- Conducting site visits and inspections
- Checking for secondary warehouses
- Visually documenting and diagramming the facility and the operations
- Conducting on-going audits
- Knowing from whom the diverter purchases product and if those sources are from overseas (higher risk profile)
- Knowing each diverter's business model related to volume and pricing
- Understanding if diverter is buying from overseas
- Continuously monitoring for solvency, bankruptcies and lawsuits
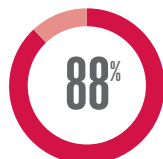
88% Approved distributors are identified, verified and provided to procurement personnel
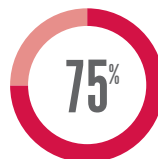
75% Procurement personnel are sensitized and trained on risks of use of non-approved distributors
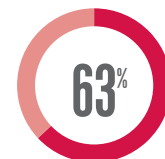
63% Role of procurement incentives is structured to ensure best practices are followed

RECOMMENDED BEST PRACTICES AND INDUSTRY BENCHMARKING

Survey Question: Diversion is recognized as a supply chain and economic buying practice. Does your company purchase inventory from diverters or sources other than directly from the manufacturer or primary wholesalers?
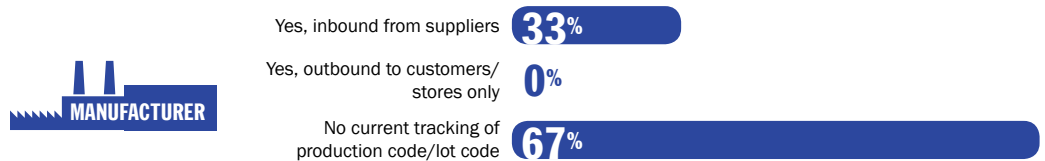
RETAILER

56% YES

33% NO

Manufacturers and Retailers

Employ security measures for material oversight and reconciliation at warehouses and distribution centers
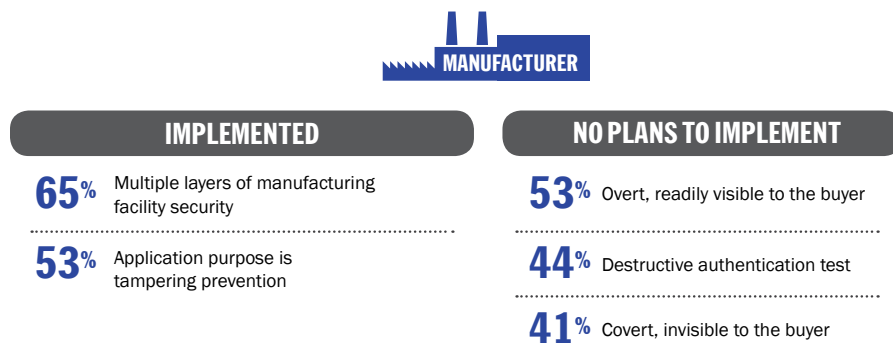
According to risk management and supply chain security experts, both manufacturers and retailers should establish security that includes the following:

- Background checks of personnel
- Video cameras
- Secure entries
- Locked external waste containers
- Low-level motion detection beams at dock doors and entrances
- System-wide receiving protocols tied to both the shipper and receiver
- Advance Ship Notices (ASN) for tracking by lot or production code
- Receiving system accessibility for limited and specific personnel
- Collaboration between shippers and receivers on any pallet tracking technology

Survey Question: Do you track lot or production codes of supplier products?

MANUFACTURER

Yes, inbound from suppliers	**33%**
Yes, outbound to customers/stores only	**0%**
No current tracking of production code/lot code	**67%**

Survey Question: The implementation status within your company (manufacturers) of each of the listed product technology activities is…

MANUFACTURER

IMPLEMENTED		NO PLANS TO IMPLEMENT	
65%	Multiple layers of manufacturing facility security	**53%**	Overt, readily visible to the buyer
53%	Application purpose is tampering prevention	**44%**	Destructive authentication test
		41%	Covert, invisible to the buyer

RECOMMENDED BEST PRACTICES AND INDUSTRY BENCHMARKING

Manufacturers and Retailers

Educate retailers and consumers through a product awareness program

A product awareness program should include a list of the products that are most susceptible to counterfeit, visual aids that distinguish between real and fake product and detailed steps for product validation. This level of collaboration and communication enables retailers and manufacturers to combat the counterfeit issue together.

Retailers and manufacturers can work together to expand the consumer product awareness program by providing information on their websites, offering a toll-free number and expanding to the use of smartphone apps or technology. Doing so informs consumers as to how to identify counterfeit product and then instructs them on the process to follow if they believe they have purchased a counterfeit product.

Case in Point

Brand Website Helps Combat Counterfeit

A manufacturer of nationally distributed pet products has been very successful with its line of branded products. The manufacturer sells authentic products through various channels, such as chain grocery, drug and mass merchandisers, as well as pet supply stores, veterinary offices and online retailers. Because the products have been successful, they have been highly targeted by counterfeiters.

As the brand became more popular, adulterated product has been unknowingly purchased by consumers from online retailers as well as brick and mortar stores.

After receiving consumer complaints, the manufacturer developed a website campaign to educate pet owners about where to buy legitimate products and how to spot a fake or counterfeit product. A website splash page was created and links were sent to online retailers and regulatory agencies. The website educational campaign included:

- Step-by-step instructions for identifying counterfeit product
- Pictures of all identifiers on external packaging
- Directions for reporting counterfeit product

The controlled distribution of information also minimized panic and misinformation that was spread over the Internet.

By seizing control of the situation, the manufacturer was able to keep legitimate product sales strong. Also, many of the illegitimate online retailers have been identified and some have gone out of business. The manufacturer of the counterfeit product was never identified and located, but the flow of counterfeit goods was stopped. By educating the consumer, the manufacturer's customers are now more savvy and educated about the production, distribution and sale of these products.

RECOMMENDED BEST PRACTICES AND INDUSTRY BENCHMARKING

Manufacturers

Develop a question tree specific to counterfeit detection for consumer call centers

Consumer complaints are the first line for detection of counterfeit product that has reached the consumer. Consumers have valuable information regarding the condition of the product that can be an indicator of counterfeit product in the marketplace. A well-trained consumer call center agent can leverage the question tree to uncover and detect any potential counterfeit issues without implicating the retailer and can feed this information to the appropriate area of responsibility. This best practice was developed through survey results, manufacturer interviews and the TPA Brand Protection Working Group.

Example of question tree:

- Where did you buy the product?
- Do you normally buy that type of product there?
- How much did you pay for it?
- Was the price lower than what you would normally expect to pay for it?
- Was the packaging different from what you normally purchase?
- Does the logo scratch off easily?
- Was there anything different about size, color, text, condition?
- Did the product perform differently from what you expected?
- What is the lot code or production code? (Instructing them where to locate it)
- If this was an internet purchase, can you provide name of seller as well return address from where the product was shipped?

Case in Point

Consumer Complaints Lead to Counterfeit Product Discovery

A Fortune 500 company that manufactures personal and beauty products began receiving complaints on its consumer service number about a non-performing product. From the calls, the company deducted that the product in question had been sold at two national retail chains. The company sent a field force into the stores to purchase the product and discovered that some of the product purchased was counterfeit.

Through collaborative engagement with the retailers, who were equally concerned about counterfeit product on their shelves and consumer safety, it became apparent that retail executives were unaware of the problem and quickly realized they did not have sufficient quality assurance / authenticity controls in place.

The manufacturer communicated with the retailers to take the following steps:

- Remove counterfeit product from the shelf
- Fund and verify the destruction of all counterfeit product
- Identify the source of counterfeit supply

RECOMMENDED BEST PRACTICES AND INDUSTRY BENCHMARKING

Because the counterfeit product was well-mixed in the retailers' supply chain, the retailers were required to pull 100 percent of the SKU from shelves at all stores to sort out the counterfeit units. Through cross referencing, the manufacturer was able to isolate the source of the counterfeit product. Department of Homeland Security was notified, and the counterfeit supplier's operation was shut down and an arrest was made. The investigation also uncovered other retailers who had unintentionally purchased fake goods, and the company was able to contact those retailers to have the fake product removed.

Unfortunately, the manufacturer brand's reputation was damaged among consumers who purchased the non-performing counterfeit product. The number of consumer complaints tripled during this incident, which reflected poorly on the manufacturer. Consumers were at risk because some consumers contacted the company with injury complaints. The retailers faced substantial financial liability – to remove the counterfeit product from the supply chain and to refill the supply chain with legitimate product. Ultimately, the retailers were encouraged to be more diligent in their sourcing.

Manufacturers and Retailers

Develop a plan for the disposition of off-specification, overstock, seasonal and unsaleable products: Based on the results of the survey, most retailers and manufacturers already have a plan and procedures in place.

All of the retailers that responded to the survey indicated that they have return-to-vendor procedures in place for manufacturers that offer credit. More than 70 percent of the retailers indicated they place restrictions on secondary markets or buyers of overstock, seasonal and other nationally branded products. More than 57 percent of retailer respondents have procedures to ensure approved disposition of these products.
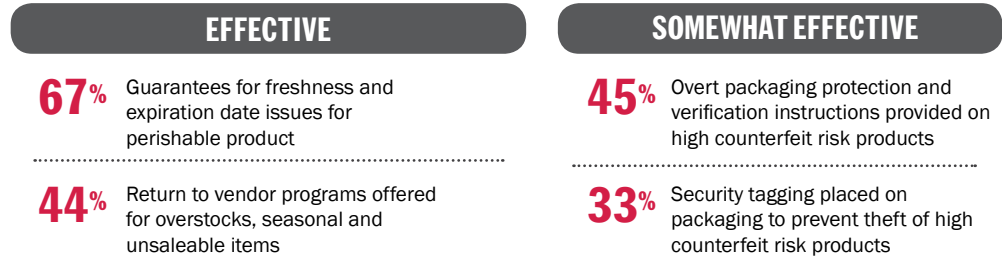
Sixty percent of manufacturers offer promotion incentives to sell these items through primary retail locations and 47 percent offer return-to-vendor programs. Only 27 percent of manufacturer survey respondents indicated that they had trade restrictions placed on the disposition of overstocks, seasonal and unsaleable items.

Without a plan and proper controls, product can unintentionally enter the secondary and tertiary markets. Secondary and tertiary markets are channels outside of the direct sales channel, such as off-price retailers, salvage dealers and flea markets. Collaboratively, retailers and manufacturers can reduce the incidence of unauthorized product entering secondary markets through the adoption of policies and practices to control the returns process for these goods.
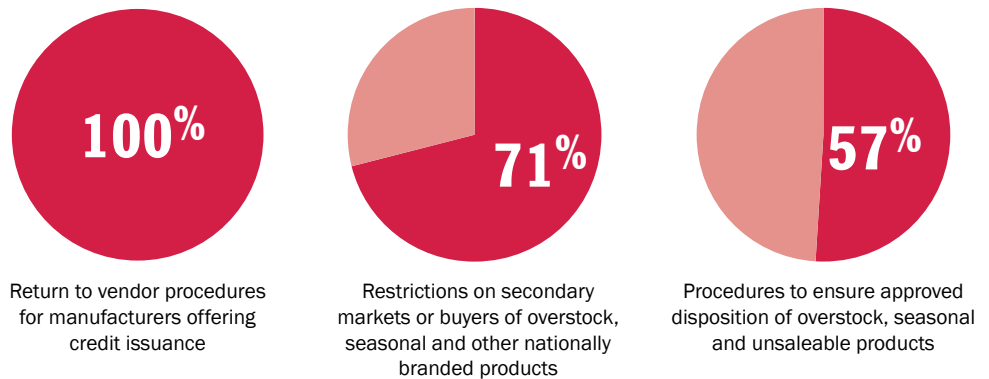
Additionally, with manufacturers placing a heavier emphasis on sustainability and "green" efforts, understanding the disposition of off-specification items and packaging is important. Preventing these items from entering the supply chain is important for brand integrity as an unintentional effect of zero-waste initiatives can open the door for counterfeit product.

RECOMMENDED BEST PRACTICES AND INDUSTRY BENCHMARKING

Survey Question: Please indicate how effective you find the programs offered by nationally branded manufacturers to encourage product and supply chain integrity.

RETAILER

EFFECTIVE	SOMEWHAT EFFECTIVE
67% Guarantees for freshness and expiration date issues for perishable product	**45%** Overt packaging protection and verification instructions provided on high counterfeit risk products
44% Return to vendor programs offered for overstocks, seasonal and unsaleable items	**33%** Security tagging placed on packaging to prevent theft of high counterfeit risk products

Survey Question: Please indicate the supply chain practices in place within your distribution supply chain…

RETAILER

100% Return to vendor procedures for manufacturers offering credit issuance

71% Restrictions on secondary markets or buyers of overstock, seasonal and other nationally branded products

57% Procedures to ensure approved disposition of overstock, seasonal and unsaleable products

Manufacturers and Retailers

Create a counterfeit playbook: A counterfeit playbook defines the steps to take if / when counterfeit product is discovered.

Such preparation positions manufacturers and retailers to respond quickly in the event of a counterfeit incident. Based on feedback from the retailers surveyed and interviewed, the key steps to incorporate in the playbook include:

- At corporate, dedicate one point of contact to initiate protocol.
- Contact public relations and involve them in managing the event.
- Pull all impacted product from shelves.
- Turn off the relevant UPC(s).
- Consolidate and secure product in a predefined location.
- Determine the original supply lines of all product and contact vendor(s).
- Contact law enforcement.

RECOMMENDED BEST PRACTICES AND INDUSTRY BENCHMARKING

Manufacturers and Retailers

Involve the brand protection community.

Collaborate with trading partners, peers, competitors, suppliers and law enforcement. Participate in industry organizations, conferences and share groups and designate someone in corporate management to serve as the contact who will report back to the anti-counterfeit team within the company. These communities can be a resource for information on how to protect your brand from counterfeit activities. The appendix includes a list of anti-counterfeiting and brand protection associations.

Forty-seven percent of manufacturers participate in industry organizations while 20 percent of retailers surveyed indicated participation. When reviewing the survey results, the TPA Brand Protection Working Group believed that retailer involvement is actually a much higher number in reality than was self-reported. See Appendix IV for a list of associations.

With collaborative effort, databases can be created or an existing one leveraged to maintain the most up-to-date counterfeit alert information. Doing so will enable retailers and manufacturers to share information and more readily use resources to prevent the flow of counterfeit goods in a secure, non-public environment. Counterfeit events are similar to recall events, for a comparison see Appendix III.

SURVEY, STRATEGY AND METHODOLOGY

Two surveys were designed for this study: one to capture the activities and attitudes of manufacturers with respect to counterfeit goods and a second to capture those of retailers. The surveys were designed to capture activities that were unique to one group as well as those that overlapped. The questions were designed specifically to address consumer packaged goods (CPG). The scope of the survey did not include coupons or clothing, electronics, accessories, sporting goods and other items. The questions about counterfeit and adulterated products did not specifically identify stolen goods.

The manufacturer survey consisted of 54 questions within eight categories (listed below). The questions were designed to capture the best examples and ideas related to their experience, interaction and collaboration with retailers based on their position in the supply chain and their commerce activities.

The retailer survey contained 41 questions in nine categories (listed below). (A private label management category was added to the retailer survey.) The questions were designed to capture the best examples and ideas related to their experience, interaction and collaboration with manufacturers.

MANUFACTURER	RETAILER
Demographic and qualifying questions	Demographic and qualifying questions
Brand protection management	Brand protection management
Experience with counterfeit products	Experience with counterfeit products
Distribution practices	Distribution practices
Best practices	Best practices
Industry participation	Industry participation
Strategies	Manufacturer programs
Manufacturing practices	Procurement practices
	Private label management

Survey Question Categories

To facilitate the cross-functional effort required in order for participants to capture specialized knowledge within their organizations, a PDF of each survey was distributed along with the online survey to enable respondents to gather information prior to completing the survey. The majority of questions were in multiple-choice format to maintain consistency across respondents and to simplify the process for respondents. Open-ended questions were used when possible to capture individual companies' approaches and to facilitate the development of best practices.

SURVEY, STRATEGY AND METHODOLOGY

The survey was distributed through four contact networks – Authentix, FMI, GMA and Inmar. The survey was sent to contacts who served functions in brand protection, supply chain, security and legal. As expected, the completed surveys came from cross-functional teams from all of these areas.

The survey was distributed to more than 300 individuals and the final response rate was greater than 9 percent. Respondents represent brand protection and supply chain security experts from leading manufacturers and retailers in the CPG industry. Combined, the two surveys provided a representative sample of the CPG market in both market share and diversity of respondents.

Survey Results

The survey questions were designed to uncover potential demographic biases, as well as the level of support for anti-counterfeit programs amongst manufacturers and retail communities.

Of those who responded, the following profile was developed for each type of respondents:

Retailers participating in the survey comprised grocery chains and drug store chains; all had store- or private-label brands. No club stores responded to the survey.

All responding manufacturers were global companies in which brand protection is centrally managed. Dry grocery was the largest respondent category (72 percent) with personal care accounting for 28 percent.

Of respondents, more than 80 percent self-described themselves as directly holding positions with some level of responsibility for brand protection and / or supply chain integrity.

RETAILER   **MANUFACTURER**

80%

QUALIFIED RESPONDENTS

>80% in role impacting brand protection and / or supply chain integrity

Of retailer respondents, 50 percent represent retail brand asset protection, security or legal, while the remaining 50 percent represent store operations or category management.

The questions posed to the retailer and manufacturer groups to gauge the level of support for anti-counterfeit programs were similar. The responses from the two groups, however, were highly dissimilar. The results indicate a deep contrast between retailer and manufacturer perceptions regarding the frequency of counterfeit product in the supply chain.

SURVEY, STRATEGY AND METHODOLOGY

EXPERIENCED A COUNTERFEIT PRODUCT INCIDENT

Retailers — 20%
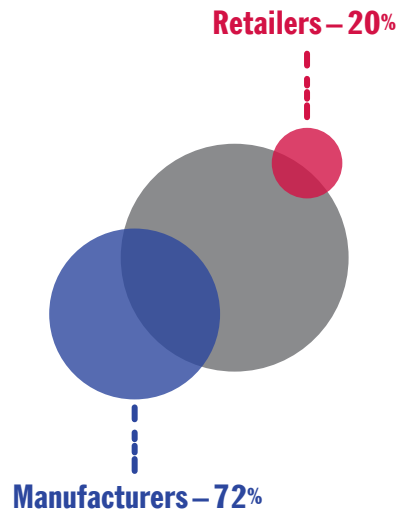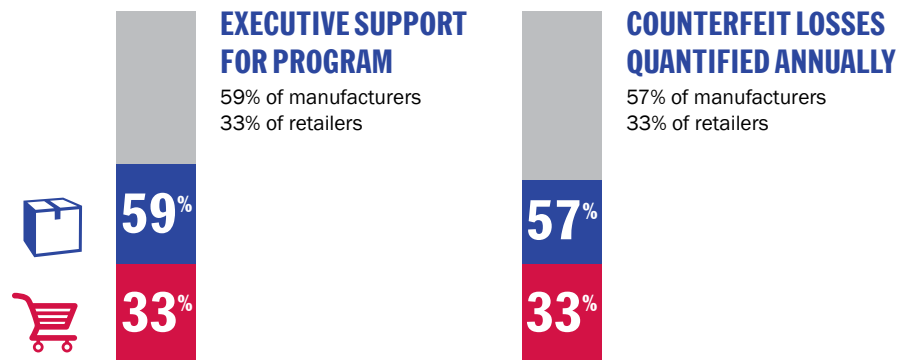
Manufacturers — 72%

Seventy-two percent of manufacturers indicated that their organizations had experienced a counterfeit product incident, while only 20 percent of retailers surveyed indicated that they had encountered counterfeit in their organizations. While this shows a disparity, counterfeit incidents are often controlled at the manufacturer level and until the problem is identified as large in scope, retailers may not be aware of the counterfeit incidents. It is important to note that specialty retailers were not included in the survey.

While there were exceptions, the majority of retailers further documented that they did not know of any financial losses as a result of counterfeit products. Eighty percent of retailers stated that they had not "experienced or detected a non-approved nationally branded product at store level or in the secondary retail market." Seventy percent of retailers were not aware of any financial losses as a result of counterfeit products, compared to 43 percent of manufacturers. All retailers responding to the survey reported that there had been zero incidence of counterfeit store-branded product at either the retail store level or anywhere else in the supply chain.

The very different perceptions regarding the prevalence and impact of counterfeit between the two groups explain why manufacturers have more formalized anti-counterfeiting programs in place and why there is more senior-level support for anti-counterfeit programs within manufacturing companies. It is logical that if a company has not knowingly experienced losses or other damage from counterfeit product, they would not be likely to allocate time or resources for planning its prevention. For manufacturers, the presence of counterfeit product (much like a product safety recall) is a low probability / high consequence scenario which many companies believe will not happen to them. For retailers, counterfeit incidents, like product recalls, are a high probability event. But for retailers, the related consequences of recalls and counterfeits are very different, particularly financially. In the event of a product recall, manufacturers typically handle the product removal, logistics and bear the financial burden of stock removal and replenishment. In the event of a counterfeit incident at retail or consumer level, both the logistic and financial burden as well as any legal liability may fall directly on the retailer. There are commonalities between how recalled and counterfeit products are handled. A comparison chart is provided in Appendix III.

SURVEY, STRATEGY AND METHODOLOGY

The disparity between groups is illustrated by responses received to the following questions:

EXECUTIVE SUPPORT FOR PROGRAM

59% of manufacturers
33% of retailers

59%
33%

COUNTERFEIT LOSSES QUANTIFIED ANNUALLY

57% of manufacturers
33% of retailers

57%
33%

Manufacturers - 65 percent are proactive and have established anti-counterfeit plans.

When asked to indicate protection measures and supply chain practices in place to protect products, 86 percent of retailers reported having no metrics in place to monitor counterfeit, diverted or unauthorized branded products. For store brands or private label products, the percentage dropped to 75 percent.

Whether in reality or perception, these survey findings indicate a significant gap between retailers and manufacturers in their view of the proliferation of counterfeit goods.

Survey results indicated that retailers as a group do not perceive counterfeiting as an issue in the marketplace and have not been as focused on it. Manufacturers, on the other hand, do view counterfeit product as an issue in the marketplace and many have made investments to detect, prevent and deter counterfeit product. If, however, counterfeit is not identified prior to distribution, it will find its way to retail shelves and will be sold to the consumer with little chance of detection. This is the reason that both retailers and manufacturers must work together to address the issue, whether or not they have experienced "pain." Counterfeiting is an issue that must be addressed through a collaborative approach between retailer and manufacturer, due to the potential risks to brand reputation from the loss of consumer confidence in the brand's integrity, which ultimately impacts both manufacturers and retailers.

An Inmar survey of 510 consumers found that consumers are concerned about counterfeits – 16 percent suspected that they had purchased counterfeit product, and shoppers with children were found more likely to suspect they had purchased counterfeit product. Consumers overall had negative opinions of counterfeit products, with 74 percent believing counterfeit products to be of lower quality than genuine items and 55 percent believing such products are unsafe. Millennials seem more concerned about encountering counterfeit items.

The Inmar study also asked consumers about three hypothetical shampoo buying situations:

1. You purchase a brand of shampoo that you have not purchased before from your local grocery store. When you use it for the first time you notice that the fragrance smells different than described on the bottle and it does not lather like your normal shampoo.

SURVEY, STRATEGY AND METHODOLOGY

2. You purchase a different type of shampoo (e.g., anti-breakage shampoo instead of your normal clarifying shampoo) in the usual brand (e.g., same manufacturer) you buy from your local grocery store. When you use it for the first time you notice that the fragrance is slightly off and it does not lather like your normal shampoo.

3. You purchase your usual brand of shampoo from your local grocery store. When you use it for the first time you notice that the fragrance is slightly off and it does not lather like usual.

The survey found that 86 percent would return the shampoo they believed unsatisfactory to the retailer for a refund, while 80 percent indicated they would contact the manufacturer for a refund. Further, of consumers that indicated they would tell someone about their experience, those same consumers would tell someone about the brand and the retailer 59 percent of the time. This percentage does not account for the residual "word of mouth" effect that would spread the consumer's story of dissatisfaction, amplifying the message and having it disseminated through social media.

While consumers often are aware that the purse or shoes they find at a bargain price may be counterfeit, they do not expect their food and personal care items to be counterfeit. These are goods that they and their families ingest or use on their skin, which ultimately could pose harm if the products are not manufactured or distributed correctly. It is true that the price of CPG products such health and beauty aids, food and cleaning products do not compare to the purchase prices of the designer or electronic items consumers most often associated with counterfeit; however, the potential risk associated with counterfeit products harming a consumer should give pause to all parties in the supply chain.
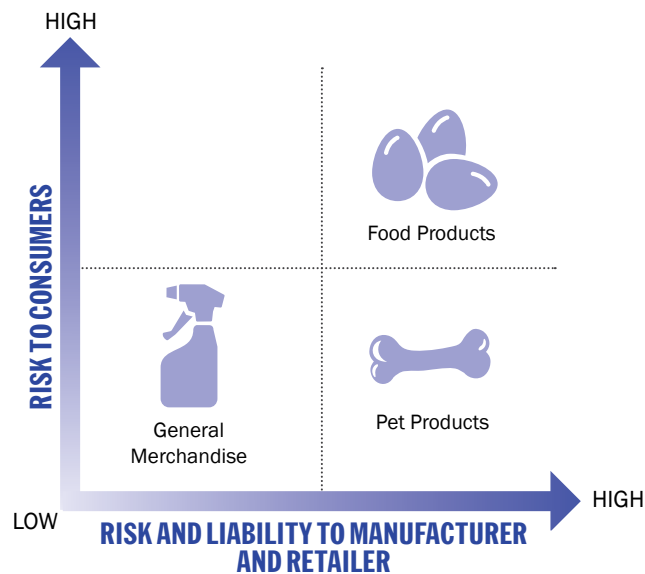
APPENDIX I: ACKNOWLEDGMENTS

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APPENDIX I: ACKNOWLEDGMENTS

APPENDIX II: RISK ASSESSMENT TOOLS

Retailers participating in the survey and interviewed for this project noted the following attributes that should be included when calculating the potential risk (and cost) of counterfeit product being found on the retail shelf.

Risk Assessment Tool for Retailers

Risk Category	Inputs	Benefit
Revenue Loss	• Sales lost based on lifetime value of a consumer • Loss of brand's premium price in marketplace • Out of stock resulting from pulling product from shelves	Revenue Recovery
Unnecessary Costs	• Legal and management resources and associated costs • Investigative costs • Ad hoc and unplanned drain on internal resources • Cost of pulling all product from shelves • Replenishment cost for restocking with authentic product	Cost Avoidance
Liability	• Penalties and / or damages • Increase in insurance premiums	Liability Avoidance
Brand Erosion	• Brand erosion • Loss of consumer trust • Loss of market share • Goodwill, loss of good relationship with manufacturer	Brand Protection

APPENDIX II: RISK ASSESSMENT TOOLS

Risk Assessment Tool for Manufacturers

For manufacturers, a risk assessment tool has been developed that focuses on risks that warrant expenditures to prevent. The following attributes should be assessed when evaluating the impact of risk and likelihood of occurrence with respect to counterfeit in the manufacturer's supply and distribution chain.

Risk Category	Inputs	Benefit
Revenue Loss	• Sales lost to counterfeit products • Loss of brand's premium price in marketplace	Revenue Recovery
Unnecessary Costs	• Legal and management resources and associated costs • Investigative costs • Ad hoc and unplanned drain on internal resources	Cost Avoidance
Liability	• Penalties and / or damages • Increase in insurance premiums	Liability Avoidance
Brand Erosion	• Brand erosion • Loss of consumer trust • Loss of market share	Brand Protection

Product portfolios and business processes are unique to every company and for that reason development of product and corporate risk assessment should be undertaken on an individual company basis. However, the general process will involve understanding the environments through which your products are being manufactured, distributed and sold and identifying and weighting the associated risks. Identifying and understanding the points of vulnerability through the entire supply chain from procurement of raw materials through the point of sale and use of the finished product is essential. Typical vulnerability assessment tools will place counterfeit risks in one or more of the following categories:

- Health and safety risk to patients and consumers

- Reproducibility of packaging components

- Loss of revenue

- Loss of customers

- Diluted margins

- Valuation loss

- Brand integrity exposure

- Loss of market share

- Cost of litigation due to exposure to damages

- Unplanned demand on internal management

APPENDIX II: RISK ASSESSMENT TOOLS

Output from vulnerability assessments should lead to risk mitigation strategies for each risk category based on:

- Understanding each risk profile and establishing quantifiable risk metrics, e.g. loss of revenue can be assessed as High, Moderate or Low or it can be scored on a scale of 0-10

- Mapping each risk profile to at least one key corporate success metric, e.g. litigation risk impacts legal expenses (internal and external)

- Understanding the revenue impact of each percentage point in market share loss

It is helpful to summarize the information in a format that can be communicated easily and understood within your organization. Keep in mind that the results will be both quantitative and qualitative.

APPENDIX III: COMPARISON OF RECALL AND COUNTERFEIT EVENTS

Recall – Manufacturer Responsibility	Counterfeit – Retailer Responsibility
Recall plan	Global counterfeit protocol
Mock recalls	Continuous auditing of manufacturing (in case of private label) and alternate sourcing providers
Recall notifications to affected parties	Communication to consumers and legal authorities
Consumer call center	Consumer call center
Waste characterization of product and product retrieval	Product retrieval including removal of all SKUs to determine counterfeit from genuine product
Fulfillment and replenishment	Fulfillment and replenishment of missing product
Disposition and disposal	Disposition and disposal
Post event analysis	Counterfeit playbook
Legal ramifications • Reporting to appropriate agencies to ensure that regulatory standards have been met – FDA, USDA, EPA	Legal ramifications • Notification of law enforcement agencies of illegal counterfeit activities – Homeland Security, Port Authority, FBI, local authorities
Financial obligations • Reimbursement to retailers, wholesalers and consumers for recalled product. Financial loss of lost sales	Legal ramifications • Reimbursement to consumers for counterfeit product and financial responsibility for product withdrawal, destruction of product and replenishment of product on the retail shelf

APPENDIX IV: LIST OF ASSOCIATIONS

Acronym	Name	URL	About
ACG	The Anti-Counterfeiting Group	http://www.a-cg.org/	ACG has been working since 1980 to raise awareness of the serious organized crime of counterfeiting genuine products. The trade in fakes has never been more prolific, mainly because of the exponential rise in counterfeiting activities on the internet in recent years. It is now a global epidemic, posing major threats to consumers and national economies.
AIM	European Brand Association	http://www.aim.be	AIM represents brand manufacturers in Europe on key issues that affect their ability to design, distribute and market their brands. AIM's membership groups some 1800 companies of all sizes through corporate members and national associations in 21 countries.
ANA	Association of National Advertisers	www.ana.net	The ANA helps client-side organizations make better business decisions by providing collaborative benchmarking, networking and brand-building knowledge along with exclusive access to the latest marketing insights of more than 500 leading companies and over 10,000 brands.

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Acronym	Name	URL	About
BASCAP	Business Action to Stop Counterfeiting and Piracy	http://www.iccwbo.org/advocacy-codes-and-rules/bascap/	The Business Action to Stop Counterfeiting and Piracy (BASCAP) was launched by the International Chamber of Commerce in 2004 to fight against piracy and counterfeiting and protect intellectual property. At BASCAP our mission is is to: 1. Connect and mobilize businesses across industries, sectors and national borders in the fight against counterfeiting and piracy.---2. Pool resources and expertise – creating greater critical mass than any single company or sector could do alone.---3. Amplify the voice and views of business to governments, public and media – increasing both awareness and understanding of counterfeiting and piracy activities and the associated economic and social harm.---4. Compel government action and the allocation of resources towards strengthened intellectual property rights enforcement.---5. Create a culture change to ensure intellectual property is respected and protected.
CBBB	Council of Better Business Bureaus	http://www.bbb.org/	The Council of Better Business Bureaus (BBB) helps North American consumers and businesses know who's on the up-and-up. The non-profit organization comprises independent BBBs and branches in about 125 locations throughout North America, as well as some 240 national companies that have shown a commitment to business ethics.

APPENDIX IV: LIST OF ASSOCIATIONS

Acronym	Name	URL	About
CSCMP	Council of Supply Chain Management Professionals	http://www.cscmp.org/	Founded in 1963, the Council of Supply Chain Management Professionals (CSCMP) is the preeminent worldwide professional association dedicated to the advancement and dissemination of research and knowledge on supply chain management. With over 8,500 members representing nearly all industry sectors, government, and academia from 67 countries, CSCMP members are the leading practitioners and authorities in the fields of logistics and supply chain management.
DHS	Department of Homeland Security	http://www.dhs.gov/	The Department of Homeland Security has a vital mission: to secure the nation from the many threats we face. This requires the dedication of more than 240,000 employees in jobs that range from aviation and border security to emergency response, from cybersecurity analyst to chemical facility inspector. Our duties are wide-ranging, but our goal is clear – keeping America safe.
DSAC	Domestic Security Alliance Council	http://www.dsac.gov/Pages/index.aspx	The Domestic Security Alliance Council (DSAC), a strategic partnership between the FBI, the Department of Homeland Security and the private sector, enhances communications and promotes the timely and bidirectional effective exchange of information keeping the nation's critical infrastructure safe, secure and resilient. DSAC advances elements of the FBI and DHS missions' in preventing, deterring, and investigating criminal and terrorism acts, particularly those effecting interstate commerce, while advancing the ability of the U.S. private sector to protect its employees, assets and proprietary information.

APPENDIX IV: LIST OF ASSOCIATIONS

Acronym	Name	URL	About
EFPIA	European Federation of Pharmaceutical Industries and Associations	http://www.efpia.eu/	The European Federation of Pharmaceutical Industries and Associations (EFPIA) represents the pharmaceutical industry operating in Europe. Through its direct membership of 33 national associations and 40 leading pharmaceutical companies, EFPIA is the voice on the EU scene of 1,900 companies committed to researching, developing and bringing to patients new medicines that will improve health and the quality of life around the world.
IACC	International Anti-Counterfeiting Coalition	http://www.iacc.org/	The touchstone of the IACC's mission is to combat counterfeiting and piracy by promoting laws, regulations and directives designed to render the theft of intellectual property undesirable and unprofitable. The IACC serves as an umbrella organization, offering anti-counterfeiting programs designed to increase protection for patents, trademarks, copyrights, service marks, trade dress and trade secrets. --- Critical to the IACC's purpose is its belief that acts of counterfeiting create severe public health and safety hazards, as well as economic harm. The IACC initiates actions and supports government actions that will ultimately result in increased enforcement, lead to the prosecution of intellectual property infringers, and create a strong deterrent to counterfeiters and pirates.

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Acronym	Name	URL	About
INFRAGARD	INFRAGARD	http://infragard.com/	InfraGard is a non-profit organization composed of a number of individuals, including but not limited to, those from several federal agencies, state law enforcement agencies, businesses and educational institutions that was developed to basically protect both the interests of businesses and the Federal Bureau of Investigation. At last count in 2012 there were just under 55,000 members (this also includes the FBI).
INTA	International Trademark Association	http://www.inta.org/Pages/Home.aspx	The International Trademark Association (INTA) is a global association of trademark owners and professionals dedicated to supporting trademarks and related intellectual property in order to protect consumers and to promote fair and effective commerce. The not-for-profit Association was founded in 1878 by 17 merchants and manufacturers who saw a need for an organization "to protect and promote the rights of trademark owners, to secure useful legislation and to give aid and encouragement to all efforts for the advancement and observance of trademark rights." Today, more than 5,900 trademark owners, professionals and academics from more than 190 countries make INTA a powerful network of powerful brands. Members of INTA find true value in the Association's global trademark research, policy development and education and training.

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Acronym	Name	URL	About
NASPO	North American Security Products Organization	www.naspo.info	The North American Security Products Organization, NASPO, is a The North American Security Products Organization, NASPO, is a non-profit member-supported organization. NASPO is an ANSI and ISO accredited security standards developer that certifies that providers of security documents, labels, cards, packaging, materials and technology, operate under an agreed-upon set of operational standards and security protocols.
PSI	Pharmaceutical Security Institute	http://www.psi-inc.org/index.cfm	The Pharmaceutical Security Institute is a not-for-profit, membership organization dedicated to: Protecting the Public Health, Sharing Information on the Counterfeiting of Pharmaceuticals, Initiating Enforcement Actions through the Appropriate Authorities.
WCO	World Customs Organization	http://www.wcoomd.org/	The World Customs Organization (WCO), established in 1952 as the Customs Co-operation Council (CCC) is an independent intergovernmental body whose mission is to enhance the effectiveness and efficiency of Customs administrations.

The Association of Food, Beverage
and Consumer Products Companies