Subject: Flash report - High-Level Roundtable on the EU Toolbox against counterfeiting between Commissioner Breton and key industries and associations, 15 June 2022 (online)

Dear Kerstin, dear [name], dear all,

Please find below the flash report on the High-Level Roundtable on the EU Toolbox against counterfeiting between Commissioner Breton and 10 key industries and associations held yesterday.

It provided an insightful discussion, as relayed by Commissioner Breton [here].

Kind regards,

The IP Enforcement Team

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Flash report: High-Level Roundtable on the EU Toolbox against counterfeiting between Commissioner Breton and key industries and associations, 15 June 2022 (online)

Commissioner Breton met with ten CEOs and high-level representatives from right holders, online platforms, transport and logistics services, payment services, domain name ecosystem and consumer association (see participant list below) to discuss how to step up the fight against counterfeiting. The Roundtable focused in particular on how to enhance e-commerce supply chain protection. This Roundtable is part of the stakeholder dialogue on the EU Toolbox against counterfeiting (see background below).

Participants supported the upcoming EU Toolbox against counterfeiting as a sector-specific instrument building on and complementing, among others, the (proposed) Digital Services Act and NIS 2 Directive on cybersecurity, as well as the customs-related legislation. They suggested ideas of operational solutions and tools to increase public-private partnership and information sharing along the entire supply chain, such as additional guidance/protocol on competition and data protection rules (with a focus on GDPR), a secured online platform for information sharing managed by a public authority, solutions based on new technologies (artificial intelligence, blockchain, big data, etc.), electronic identification and increased digitalisation of documentation along the supply chain. Bringing a shift in awareness-raising campaigns for consumers seems also crucial.

Main outcomes:

- All participants supported the upcoming EU Toolbox against counterfeiting in order to facilitate and accelerate cooperation and information sharing between actors of all ecosystems (right holders and online/offline intermediaries) and public authorities (in particular customs and police authorities at national and EU level).
Participants agreed on the need of a sector-specific instrument building on and complementing, among others:

(i) the (proposed) Digital Services Act (in particular the Know Your Business Customer (KYBC) obligations, notice and action mechanisms, mandatory contact points, random checks, trusted flagger status and consumer information provision);
(ii) the (proposed) NIS 2 Directive on cybersecurity;
(iii) the customs-related legislation (e.g. upcoming reform of the Union Customs Code, Import Control System 2).

According to Amazon, Meta and Vinted, the MoU on the sale of counterfeit goods on the internet is a good model of cooperation between online platforms and right holders. This industry-led initiative provides a trust environment allowing exchanges and information sharing (e.g. on trends and behaviors) between the different players and support design of effective platforms’ brand protection programmes.

However, LVMH called for specific binding rules for all intermediaries considering that industry-led initiatives have their limits, such as the involvement of a limited group of stakeholders. A broader participation among all types of intermediaries along the entire supply chain would help stop network swapping (latest trends show swapping to social media and video sharing platforms).

Participants called for agile approach and operational solutions to facilitate prevention and enforcement of counterfeiting activities, through increased public-private partnership and information sharing along the entire supply chain. In particular, participants called for:

- additional guidance and/or protocol on competition and data protection rules (with a focus on GDPR) to clarify (i) what specific data (e.g. on counterfeiters) could be shared, (ii) with whom (including competitors, other intermediaries and right holders) and (iii) for how long data could be kept (storage limitation principle);
- a secured online platform for information sharing managed by a public authority and made available for all public and private actors along the entire supply chain to (i) share and receive information (on genuine and counterfeit goods, counterfeiters (in particular repeat infringers), trends, etc.), (ii) identify contact points, (iii) receive notifications and alerts. Such secured online tool would support authorities’ investigations and private sector actors’ proactive and preventive measures;
- public-private cooperation: preparation of trainings, mutual strategies and cooperation before, during and after IPR law enforcement operations (at national and EU level, with OLAF and Europol);
- solutions based on new technologies, such as artificial intelligence, blockchain (e.g. EUIPO Blockathon pilot project and upcoming La Poste’s mobile app for the French customs authorities and customs declarants), big data and quantum analytics, electronic identification (e.g. eIDAS), and increased digitalisation of documentation (e.g. bill of lading and cargo manifest) used along the entire supply chain in order to reduce forgery, cross-reference them and detect network swapping.

Participants recalled that they apply a zero tolerance policy against counterfeiting and invest significant resources to fight against counterfeiting:

- Amazon, Meta and Vinted explained their advanced automated tools (including image recognition tools) and manual processes to remove counterfeit goods, their brand protection programmes,
coordinated legal actions with right holders, and the work of their dedicated IP enforcement teams (e.g. Amazon Counterfeit Crime Unit);

– Air France KLM Cargo, La Poste and MSC highlighted the good cooperation with law enforcement authorities (in particular customs, OLAF and Europol) when their targeting centres detect and check suspicious shipments;

– EURid (registry of .eu top level domain) detailed how its maintains a complete and accurate database of all registered domain names to combat fraudulent domain name use;

– Mastercard considered that the most powerful channel of cooperation is the payment processor initiative RogueBlock developed by the International AntiCounterfeiting Coalition (IACC) in collaboration with the payment industry to create a streamlined, simplified procedure for members to report online sellers of counterfeit or pirated goods directly to credit card and financial services companies.

• Bringing a shift in awareness-raising messages seems crucial to convince consumers not to buy counterfeits goods for health, safety and sustainability reasons, and lack of consumer rights. The European Consumer Centre Belgium called for more enforcement (e.g. closing of illegal webshops) and dispute resolution mechanisms.

**Next step:** the Commission will implement the EU Toolbox against counterfeiting by end of 2022.

**Participating stakeholders:**

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<th>Organisations</th>
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<td>Air France KLM Cargo</td>
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<td>European Consumer Centre Belgium</td>
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<td>La Poste Group</td>
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**Background:**

As announced in the IP Action Plan of 2020, the EU Toolbox against counterfeiting will set out coherent, effective and coordinated action against counterfeiting, both online and offline.

In September 2021, the European Commission (DG GROW) launched the stakeholder dialogue to consult and collect the views of a wide range of key public and private sector actors on this initiative. The Commission published a Call for Evidence in February 2022 and received 80+ contributions. It has also organised – together with the EUIPO – a series of five workshops on social media (September 2021), domain names (October 2021), payments (December 2021), transport and logistics (April 2022), and information sharing (May 2022). These workshops brought together 350+ participants among right holders, intermediaries, national and EU public authorities, and international organisations.