

COUNTERFEITING

The Hidden Crime

Why does the public opinion not consider counterfeiting as serious a crime as drug trafficking or arms smuggling?

First of all, let us consider what a “serious crime” means to law enforcers and to the general public.

Certain criminal activities are immediately perceived as “dangerous”. This perception is tied to the threat these crimes pose to the safety or health of citizens and from the links between “dangerous” criminal activities as part of organized crime.



In the case of drug dealing, these elements of risk are clearly visible. The use of drugs creates serious consequences for the health of those citizens who take them. Furthermore, drugs are immediately associated with the activities of organized crime, both for their production and trafficking and for their distribution. This association with organized crime in itself poses a threat to the safety of citizens and to the public order. This association with organized crime itself poses a threat to the safety of citizens and for public order. Thus the fight against drug trafficking becomes a priority for law enforcement agencies. The same reasoning could be made for arms smuggling or human trafficking. In these cases, the general public’s perception of such crimes, of its negative consequences and of the involvement of organized crime is usually in line with the perception of the law enforcement and relevant governmental agencies.

Are these considerations also valid in the case of counterfeiting? The answer is clearly no.

In a nutshell, counterfeiting is a dangerous criminal activity because by replicating products counterfeiters cause enormous damage to the economic market, and put consumers at huge risk. The negative economic consequences felt by legitimate producers – as a result of a loss of sales – are coupled by other economic consequences for governments: counterfeiters do not pay taxes. Counterfeiters being able to offer their replicas at very low prices use the cheapest raw materials at their disposal and, obviously, do not comply with any regulation regarding workers’ rights or safety. In many cases they are also able to infiltrate the legitimate supply chain, reaching the supermarket shelves, cheating consumers and expanding their potential market share. In this case, counterfeiters enter directly into competition with lawful and honest entrepreneurs. Owners of medium or small commercial activities can hardly compete and can be put out of business. The effect is job losses and even a reduction of opportunities for development and innovation. The economic

prejudice becomes a social crisis for all those people who lose their jobs every year and cannot easily find other employment opportunities.

Moreover, counterfeiters replicate a variety of products that are potentially dangerous for the health and safety of citizens. Medicines, toys, parts for cars and aircrafts, electrical equipment, food and beverages are only some of the goods that fall into this category.

Finally, counterfeiters are organized criminals who run their illicit activities side by side with drug trafficking, arms smuggling, corruption, money laundering, human trafficking and contraband. Like all organized criminal groups they are driven by huge profits. They use counterfeiting as a source of fast enrichment to fund these and other illicit activities and to launder the proceeds of crime.

Counterfeiting seems to show all the characteristics of a "serious" crime, even if it is still perceived just as a "cottage industry", affecting only rich multinationals. Underestimating the impact of counterfeiting is a crucial mistake contributing to the creation of a "distorted perception" of this crime. Both the general public and the law enforcement agencies often look only at the surface of the problem: the economic consequences of counterfeit goods. But if one starts to dig, the clandestine dimensions become clear. Why don't the competent authorities intensify their investigations? One of the main reasons is associated with the fact that they were more interested in targeting actions that they considered "priorities". But, in the absence of an in depth investigation, they also prevented themselves from clearly understanding how dangerous this crime was.

Law enforcement authorities often place the label of "economic crime" upon counterfeiting – which, in many ways, means a "second class crime". But 60 people killed in Estonia by counterfeit vodka, 3000 people dead in Niger because of a fake meningitis vaccine and almost 100 killed in Panama by counterfeit medicines are not the result of a pure and simple economic crime. Similar cases occurred in the early '70s and progressively became more frequent all over the world, up to the point that experts now estimate that in some African or Latin American countries counterfeit medicines could represent more than 30% of all medicines on sale.

One must admit, in partial justification of the law enforcers' attitude, that the nature of the crime could contribute to keeping its worst consequences well hidden. Counterfeiting is, in fact, a crime that is mostly unreported. The consumer in good faith – cheated by a "fake" that reached the supermarket shelves – tends to attribute the defect of a product to its low quality, blaming the legitimate producer. Counterfeit electrical components or toys that reached the consumer could never be discovered if the consumer her/himself does not refer to the customer care section of the producing company. Even if they did, the probabilities that the defectiveness good will be identified as a counterfeit are low.

Underreporting also happens in the case of medicines. Viagra is one of the preferred targets of the counterfeiters in the European and North American markets and, fortunately, not all the fake Viagra tablets contain poisonous substances. The result of their use will simply be that the advertised effects will not be obtained. The embarrassment on the part of the consumer – maybe thinking that even the miraculous Viagra does not work with him – would prevent him from reporting.

But, even in this case, someone must be held responsible. Producers, in particular, have been well aware of the existence of replicated versions of their products on the market for a long time. However there is the tendency to run private investigations and keep related information confidential. The level of confidentiality could be, in some cases, very high and the information is not shared with the police forces and is not disseminated to the public. The main reason behind such behavior is the protection of consumers' trust in the manufacturer's brand. Ironically, it seems that information is more confidential for goods that could pose more serious dangers for the health and safety of consumers. This is what has happened, and is partly still happening, in the case of medicines. Fortunately, it appears that the trend is now in favour of a more cooperative attitude.

Producers have not been alone in restricting a proper dissemination of information. In some respect, the media also have their responsibilities. Hundreds of raids against counterfeiting factories are made each year

and each year counterfeit products claim their victims. People have long since died as a result of the use of fake medicines, drinking counterfeit liquor, or traveling on a plane or car equipped with fake parts. Only recently, the media began to give proper consideration to the magnitude of counterfeiting. Perhaps in the search for maximum exposure, media has often given more importance to informing the public on local scandals rather than on a global economic crime that was causing so many “non - economic” consequences.

Altogether, the abovementioned elements contributed to create a kind of “positive or neutral opinion” of counterfeiting among consumers. If the misinformation of citizens is combined with weak enforcement actions – or in some cases even by tolerance – by the law enforcement agencies, the idea that counterfeiting is not a serious crime will intensify in the public conscience. This misperception is worsened by the public assumption that counterfeiting is associated with the so called contraband crimes, where goods that are not available in the legitimate market – often following official prohibitionist policies – could be found on a “black market”. Experts have pointed out that a counterfeiter could be perceived as a Robin Hood of the present era, offering goods at affordable prices and in contrast to the rich producers. As a consequence, buying a counterfeit product is not considered to be dishonest behavior. On the contrary, many people are proud to show off fake bag that is so close to the original and costs less than half of the price.

Customers should instead realize that the money paid for the “affordable luxury good” will not end up in the hands of any Robin Hood. It will rather be a generous contribution to support organized crime, to allow criminals to launder their “dirty money” and to fund drug trafficking, arms smuggling, corruption and human trafficking.

Marco Musumeci has been Project Officer for the Counter-Human Trafficking and Emerging Crimes Unit at UNICRI since 2006.

Sandro Calvani is Director of UNICRI. He has served the United Nations extensively for the past twenty years.