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### **SEEING THE UNSEEN: TRIANGULATING FIRM-LEVEL DATA, CONSUMER BEHAVIOR AND LIVED PERCEPTIONS TO MAP COUNTERFEITING IN KENYA**

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#### **ABSTRACT**

This contribution synthesizes three complementary studies led by the Anti-Counterfeit Authority (ACA) and academic partners: (i) a qualitative perception survey undertaken by Michigan State University, USIU-Africa and the ACA; (ii) a broad consumer survey of 2,185 respondents across eight Kenyan counties assessing awareness, purchase patterns and reporting behavior; and (iii) a survey of 190 manufacturing firms in four subsectors estimating the prevalence of counterfeiting and its impact on industry. This contribution presents analysis of the results of those studies, moving beyond the binary concept of lawful or unlawful activity to examine how counterfeiting becomes embedded in everyday life, how firms experience the burden and how consumers respond. It concludes with evidence-based recommendations for digital authentication, behavioral campaigns, support for small and medium-sized enterprises (SME), and regional cooperation. The overall goal is to present insights and policy pathways, emphasizing tangible lessons learned in Kenya.

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\* The views expressed in this document are those of the author and not necessarily those of the Secretariat or of the Member States of WIPO.

## I. INTRODUCTION AND BACKGROUND

1. Counterfeiting remains a severe and persistent threat to economic development, consumer safety and the integrity of global trade. Estimates from the Organisation for Economic Co-operation and Development (OECD) and the European Union Intellectual Property Office (EUIPO) place counterfeit and pirated goods at approximately 2.3 per cent of global trade (OECD/EUIPO, 2025), but the burden is disproportionately borne by developing economies with weaker regulatory capacity and high informal-sector participation.
2. The counterfeiting challenge in Kenya reflects global trends and local specificities. The Anti-Counterfeit Authority (ACA), established under the Anti-Counterfeit Act (CaP 510), is the national body mandated to lead on intellectual property (IP) enforcement, raise awareness, conduct research, advise the Government and coordinate with national, regional and international players in the IP protection and enforcement ecosystem.
3. In recent years, the ACA has shifted from purely enforcement-centric efforts to a tri-pillar model focusing on data and research, community and behavior, and technology and industry engagement. Rather it has adopted a data-driven, multidisciplinary research approach to better understand the scale of counterfeiting and the behavioral and cultural dynamics that sustain it.
4. In 2024 and 2025, the ACA and academic partners conducted three complementary studies: (i) a qualitative perception survey by Michigan State University, USIU-Africa and the ACA; (ii) a broad consumer survey of 2,185 respondents across eight Kenyan counties assessing awareness, purchase patterns and reporting behavior; and (iii) a survey of 190 manufacturing firms in four subsectors estimating the prevalence of counterfeiting and its impact on industry.
5. The perception survey illuminates how counterfeiting is embedded in a moral economy of survival: consumers knowingly or unknowingly purchase imitation goods as an adaptive response to economic constraints, normalized through language and social norms associated with imitation ("first copy", "Kenya original" and similar euphemisms) and with particular risk in high-harm categories such as agricultural inputs, medicines, cosmetics and automotive parts.
6. The consumer survey found a high level of awareness (83.85 per cent) but frequent inadvertent purchasing, and very low formal reporting (94 per cent never reported). The firm-level survey documents a mean counterfeit burden of 18 per cent of products, with the automotive (21 per cent) and alcoholic beverage (19 per cent) subsectors most affected. It reveals that online distribution channels account for some 42 per cent of illicit supply.
7. Drawing upon datasets from the studies, the analysis below moves beyond the binary concept of lawful or unlawful activity to examine how counterfeiting becomes embedded in everyday life, how firms experience the resulting burden and how consumers respond.

## II. FINDINGS AND DISCUSSION

8. Survey findings illustrate the magnitude of the problem. In the firm-level survey, sample companies reported an average counterfeit share of 18 per cent of their product portfolios, with automotive spare-parts firms at 21 per cent and alcoholic beverage firms at 19 per cent.
9. At the consumers' end, the ACA survey found that 83.85 per cent of Kenyans across eight counties had awareness of counterfeit goods, yet only 8.71 per cent had engaged with ACA awareness programs, and 94 per cent had never reported a counterfeit purchase.

10. The perception survey found that, in six regional sites (Nairobi, Mombasa, Kisumu, Machakos, Meru and Namanga), imitation goods were rationalized as pragmatic substitutes in constrained economies, and euphemistic language serves to domesticate counterfeiting as a consumer strategy rather than transgression.

11. Together, the findings suggest that efforts to combat counterfeiting cannot rely solely on raids, seizures and prosecution: they must also take into account consumer motivation, the evolution of distribution channels (including online platforms), and companies' vulnerabilities.

#### A. THE MORAL ECONOMY OF COUNTERFEITING

12. The perception survey reveals how imitation goods become embedded in a moral economy of survival. Across focus groups, consumers described counterfeit goods as "functional substitutes" that enable participation in consumer life despite constrained incomes. The survey documents how euphemistic terms such as "first copy" (denoting near-identical replicas), "China version" (signaling foreign-made imitations) and "Kenya original" (a paradoxical label domesticating counterfeits as legitimate local goods) function as linguistic devices that normalize counterfeit consumption by reframing it as pragmatic economic behavior<sup>1</sup>. Many respondents said that they had difficulty in distinguishing genuine goods, especially online, and relied instead on trusted seller reputations. This shows that consumer vulnerability arises as much from information asymmetry<sup>2</sup> and trust deficits as from the lack of effective enforcement.

#### B. CONSUMER AWARENESS, PURCHASE BEHAVIOR AND REPORTING GAPS

13. The consumer survey of 2,185 respondents across eight counties documents a high level of awareness of counterfeits (83.85 per cent) but a large gap between awareness and action. Nearly 70 per cent admitted to having purchased counterfeit goods, often unknowingly, while 42.5 per cent cited affordability and accessibility as reasons for knowingly purchasing imitation/counterfeit goods.

14. Certain product categories emerged as high-risk: pesticides and herbicides (89.16 per cent), automotive spare parts (81.89 per cent) and cosmetics (33.99 per cent). Of the total sample of 2,185 respondents, 7.32 per cent reported knowingly purchasing counterfeit goods. Among those, 42.5 per cent cited affordability (lower price) as the primary motivation and 33.75 per cent cited easy availability. The survey instrument did not disaggregate intentional purchase rates by specific product category, although the high-risk prevalence figures (89.16 per cent for pesticides/herbicides and 81.89 per cent for automotive spare parts) reflect sector-specific consumer awareness of counterfeiting rather than rates of deliberate purchase<sup>3</sup>. On reporting behavior, 94.34 per cent of respondents had never reported counterfeit purchases due to lack of awareness and low confidence in institutional responsiveness.

#### C. COMPANY EXPOSURE AND IMPACT ON INDUSTRY

15. The firm-level survey of 190 manufacturing enterprises across four subsectors quantifies the burden. The term "burden" encompasses multiple dimensions of impact: (a) revenue losses averaging 12.8 per cent of sales (mean), with a median of 5 per cent indicating a skewed distribution where a smaller subset of firms experiences disproportionately high losses –

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<sup>1</sup> Perception Survey on Counterfeit Products in Kenya (PIRA), sect. 4.2.2 (Euphemistic Terminology and Consumer Rationalization), pp. 24–30.

<sup>2</sup> The original term "information dissymmetry" is replaced with "information asymmetry" for terminological precision. Information asymmetry – where sellers possess superior knowledge about product authenticity that buyers lack – is distinct from misinformation (inadvertently false claims) and disinformation (deliberately false claims intended to mislead). The consumer survey (section 3.4.1) confirms this asymmetry: 69.56 per cent of consumers who purchased counterfeits did so unknowingly, indicating that the core problem is an information gap rather than deliberate transgression by consumers. See also the PIRA report, p. 21.

<sup>3</sup> Consumer-Level Survey report, sects. 3.4.3–3.4.4, pp. 55–57.

automotive spare parts experienced the highest average impact at 16 per cent; (b) brand reputation damage reported by 42 per cent of automotive firms and 32 per cent of pharmaceutical firms; (c) customer relationship erosion, with 41 per cent of alcoholic beverage firms and 40 per cent of automotive firms reporting “slightly negative” impact; and (d) online distribution, with social media and direct websites each accounting for 21.1 per cent of counterfeit sales<sup>4</sup>.

16. Firms reported that, on average, 18 per cent of products circulating under their brand names were counterfeit versions. In the automotive subsector, the figure rose to 21 per cent, and in alcoholic beverages to 19 per cent. This is observed prevalence, not a measure of susceptibility. Subsectoral figures reflect differential counterfeit penetration: automotive spare parts at 21 per cent, alcoholic beverages at 19 per cent, with pharmaceuticals/medical equipment and energy/electronics/electrical contributing to the 18 per cent average<sup>5</sup>. In terms of revenue loss, small and medium-sized enterprises (SMEs) reported being the most heavily affected. The distribution vector is shifting: 42 per cent of counterfeit goods are now sold via online platforms. Firms attribute the rising incidence of purchase of counterfeit products (53 per cent of respondents) to weak enforcement regimes, economic pressures and high consumer demand for cheaper alternatives.

#### D. INTEGRATED ANALYSIS

17. When combined, the three studies reveal a deeper narrative: counterfeiting in Kenya is not purely a criminal enterprise but also a socioeconomic phenomenon. The firm-level data quantify the scale, the consumer survey reveals exposure and behavioral patterns, and the perception study explains the cultural rationalization for consuming imitation goods. Enforcement responses must therefore integrate behavioral design, digital authentication, accessible reporting, stakeholder collaboration and inclusive industrial policy.

18. The three studies were integrated using a convergent mixed-methods design with triangulation: (i) the firm-level survey (quantitative, census of 190 Kenya Association of Manufacturers member companies across four sectors, December 2024) sets out the supply-side scale of the issue through questionnaires sent to firms and interviews of key informants;<sup>6</sup> (ii) the consumer survey (quantitative, 2,185 respondents across eight counties, determined using Cochran’s formula, with data collected using the WIPO Consumer Survey Toolkit through Kobo Toolbox) mapped the demand side<sup>7</sup>; and (iii) the perception survey (qualitative, focus group discussions across six regional sites, conducted by USIU-Africa in partnership with Michigan State University) provided interpretive depth<sup>8</sup>. Quantitative findings from the first two surveys were cross-referenced to identify convergent patterns (for instance, 18 per cent counterfeit prevalence confirmed by the 60.48 per cent consumer purchase rate), while qualitative data from the perception survey explained the behavioral mechanisms underlying the statistical patterns.

### III. RECOMMENDATIONS AND WAY FORWARD

The following recommendations are made based on analysis of the survey results:

- Strengthen digital traceability and verification: the ACA authentication recordation system should be expanded to include the use of QR codes, blockchain and SMS/USSD verification for high-risk goods.

<sup>4</sup> Firm-Level Survey report, sect. 3.4.3, pp. 22–28.

<sup>5</sup> Firm-Level Survey executive summary, p. vi.

<sup>6</sup> Firm-Level report, chap. 2, pp. 3–5.

<sup>7</sup> Consumer-Level Survey, chap. 2, pp. 11–13.

<sup>8</sup> PIRA report, sect. 3.0, pp. 10–13.

- Design behavior-informed awareness campaigns: campaigns should address affordability-risk trade-offs, use vernacular language and partner with trusted influencers.
- Promote affordable, authentic alternatives: manufacturers should be encouraged to introduce certified, low-cost product lines and strengthen local production.
- Empower SMEs and strengthen enforcement partnerships: SMEs should be given fiscal incentives to adopt serialization technologies and inter-agency coordination should be tightened.
- Regional and cross-border cooperation: cooperation within the East African Community framework should be deepened and enforcement standards harmonized.
- Develop an annual dashboard and impact metrics: a national “counterfeit dashboard” should be established to track prevalence, consumer exposure and enforcement performance.

#### **IV. CONCLUSION**

19. The Kenyan experience illustrates how a threefold research strategy combining data from firms and consumers with qualitative perception work can yield actionable, context-sensitive insights into counterfeiting. The findings challenge the dominant enforcement-only paradigm, underscoring that counterfeiting is as much about social adaptation and market structure as it is about crime. By integrating behavioral, technological, industrial and enforcement dimensions, the ACA is charting a new pathway for IP enforcement in the Global South. This model offers valuable, transferable lessons for evidence-based, citizen-centered anti-counterfeiting practice.

[End of contribution]