

The Online Sale of Counterfeit Automotive Parts

An Analysis of How Online Marketplace Practices Allow Counterfeiters to Put Unsafe Products in American Consumers' Cars, and Proposed Solutions for Minimizing the Proliferation of Counterfeits



COUNTERFEIT BRAKE PAD



COUNTERFEIT AIRBAG



Prepared by Meaghan Kent of Venable LLP working with and on behalf of the Automotive Anti-Counterfeiting Council, Inc., and its members.



Executive Summary

Manufacturing or selling counterfeit products violates established federal law, namely the Lanham Act, which carries extensive civil and criminal penalties. Nonetheless, counterfeit automotive parts continue to be manufactured by unauthorized third parties, and marketed and sold as though they are genuine parts. Counterfeit parts are not made to the specifications of the original manufacturer; are not subject to quality control tests or application of industry safety measures; do not abide by existing laws and regulations; and often fail to perform as designed. **In the most tragic cases, counterfeit parts result in catastrophic failures with fatal consequences.** The increasing prevalence of counterfeit parts sold online is of utmost concern to public health and safety.

The Automotive Anti-Counterfeiting Council, Inc. (A2C2), is comprised of 10 North American vehicle manufacturers—FCA US, Ford, General Motors, Honda, Hyundai, Kia, Nissan, Subaru, Toyota, Volkswagen Group of America, and their subsidiary brands—representing nearly 30 trusted brands and over 90 percent of the nation’s passenger vehicle market.

Since 2015, A2C2 has worked in collaboration with the National Intellectual Property Rights Coordination Center (IPR Center) to understand and resolve the problem of counterfeit automotive parts.

A2C2 has identified three factors contributing to the proliferation of counterfeit auto parts online.

- 1. Online marketplaces have taken a hands-off approach to the third-party products sold through their platforms and have created a system with little-to-no verification of sellers, their products or their supply chains. In addition, counterfeiters thrive by taking advantage of the lack of consumer safety laws and regulations pertaining to e-commerce.**
- 2. The burden of policing third-party sellers has been disproportionately placed on brand owners and consumers.**
- 3. Consumers are largely unaware of the scope of counterfeit product offered online and generally trust online marketplaces and the products they make available.**

A2C2 has proposed several solutions with the unifying message that online marketplaces must be held accountable for policing the products offered on their platforms and the sellers offering those products.

These solutions align with the Department of Homeland Security’s January 2020 Report to the President.¹

- 1. Online marketplaces should implement industry practices to validate the authenticity of the products offered on their sites, just as traditional brick-and-mortar stores have done.**
- 2. Law enforcement, brand owners and online marketplaces must collaborate to identify and track counterfeiters.**
- 3. Consumer education, both before and after purchase, must be enhanced.**

¹ *Combating Trafficking in Counterfeit and Pirated Goods*, Department of Homeland Security Report to the President, January 24, 2020. https://www.dhs.gov/sites/default/files/publications/20_0124_plcy_counterfeit-pirated-goods-report_01.pdf



A2C2 and its Efforts to Combat the Threat of Counterfeit Automotive Parts

The Automotive Anti-Counterfeiting Council, Inc. (A2C2), was formed in 2015 and is comprised of 10 North American vehicle manufacturers—FCA US, Ford, General Motors, Honda, Hyundai, Kia, Nissan, Subaru, Toyota, Volkswagen Group of America, and their subsidiary brands—representing nearly 30 trusted brands and over 90 percent of the nation’s passenger vehicle market.

Consumer safety is the primary concern of A2C2. Therefore, A2C2 opposes the proliferation of counterfeit automotive parts in the United States. The sale of these parts gives rise to grave public health and safety concerns as counterfeits are not made to the specifications of the original manufacturer; are not subject to quality control tests or application of industry safety measures; do not abide by existing laws and regulations; and often fail to perform as designed.

According to the FY 2017-2019 U.S. Joint Strategic Plan on Intellectual Property Enforcement, counterfeit automotive parts are wide-ranging.² The list of seized parts includes airbags, brake pads, wheels, seat belts, oil and air filters, control arms, windshields, bearings, steering linkages, ignition coils, microchips, spark plugs, solenoids, clutch housings, crankshafts, diagnostic equipment, suspension parts, oil pumps and more.

The report explained, that while “counterfeit auto parts may have been historically limited to ‘cosmetic’ items like hood ornaments and decals, customs [U.S. Customs and Border Protection (CBP)] seizure statistics reveal that counterfeit safety components like brake pads, air bags, wheels, and suspension parts are becoming increasingly common ... [p]ut simply, almost every type of auto part can be and has been counterfeited.”

Almost every type of automotive part can be and has been counterfeited, increasing the possibility of catastrophic failures with potentially fatal consequences.

Given the volume of vehicles on the road and corresponding auto part sales, which are increasingly online, this safety issue impacts every American. In 2019, there were over 280 million registered motor vehicles in the United States. Online sales of auto parts were estimated at over \$12 billion in 2019.³ Every day, nearly every person in this country drives, is a passenger, or comes in close contact with a motor vehicle that is being driven. As a result, counterfeit automotive parts present a clear and present danger to almost everyone in the U.S.

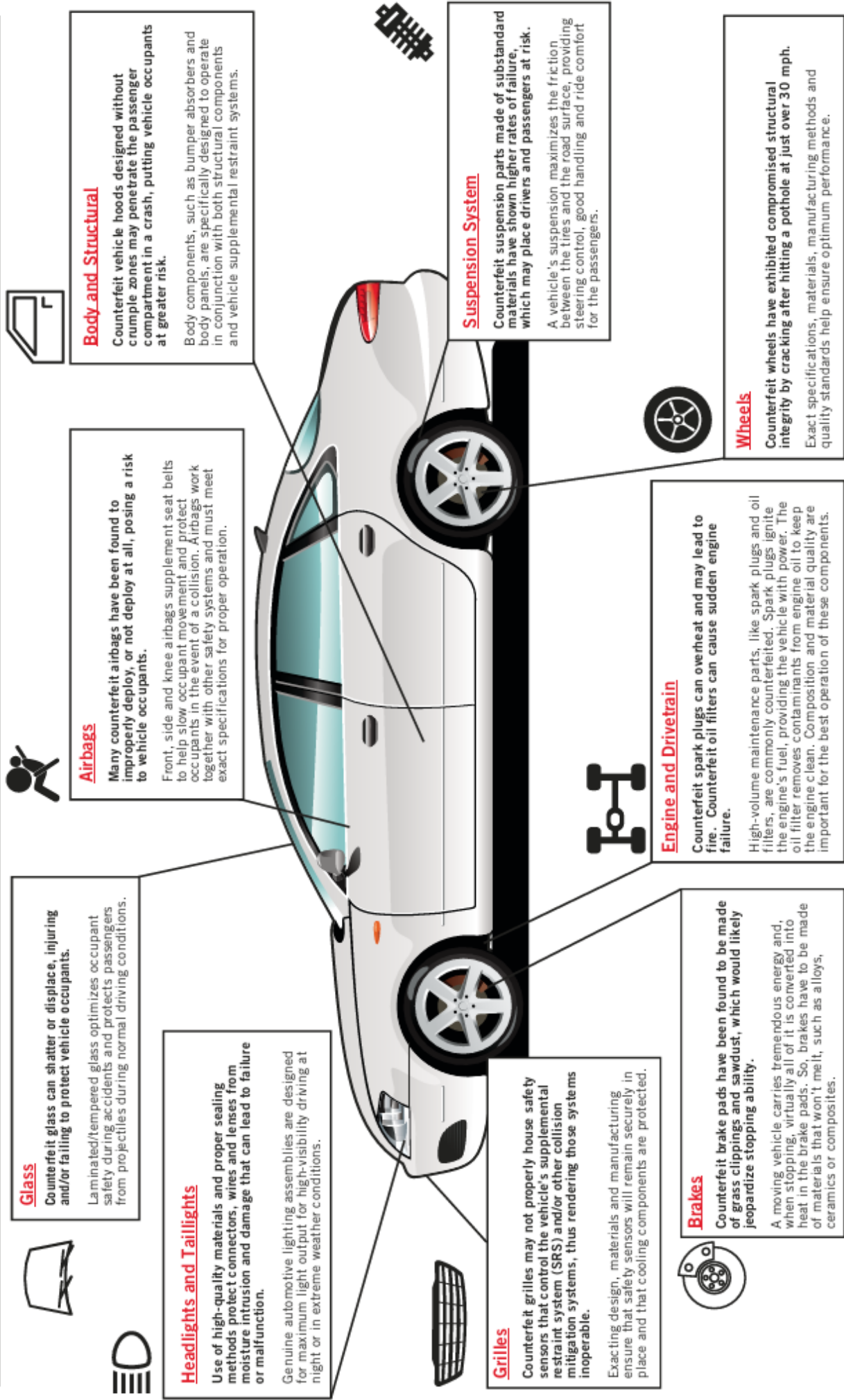
The illustration on the following page depicts key vehicle components that are commonly counterfeited and explains their potential impact on vehicle safety.

² U.S. Joint Strategic Plan on Intellectual Property Enforcement FY 2017-2019, Office of the Intellectual Property Enforcement Coordinator,

<https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/IPEC/2016jointstrategicplan.pdf>

³ Automotive Industry Analysis: Over \$148 Billion in Auto Parts & Accessory Sales Influenced by Digital in 2019, PR Newswire, <https://www.prnewswire.com/news-releases/automotive-industry-analysis-over-148-billion-in-auto-parts--accessory-sales-influenced-by-digital-in-2019-300795668.html>

OUR MISSION: Collaboration among automakers and their partners that strives to eliminate counterfeit automotive components that could harm U.S. consumers.



The most tragic examples of counterfeit auto parts lead to fatalities. In one incident, in a Dallas suburb in January 2017, a woman who lost control of her used vehicle purchased just days prior crashed into a tree and was killed because the counterfeit airbag in her vehicle failed to deploy.⁴ According to the accident investigator, instead of the necessary mechanisms that allow proper airbag deployment, a rag covered with silicone putty was discovered inside the counterfeit airbag assembly.

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Counterfeit parts are not made to the specifications of the original manufacturer, are not subject to quality control tests and are not engineered to perform as originally designed; in the most tragic cases their use results in catastrophic failures.

To combat the growing problem of dangerous counterfeit auto parts and protect consumers, A2C2 and its members have taken and continue to take numerous proactive measures:

- **Engaging with online marketplaces, both established and emerging**, to enhance and enact effective anti-counterfeit policies, increase counterfeit auto parts awareness and enforcement activities, and delist products that pose an inherent safety risk, such as airbags and their related components.
- **Collaborating with law enforcement and online marketplaces** on civil and criminal investigations to apprehend counterfeiters, which in one instance led to a raid against a large counterfeiting ring in China, resulting in multiple arrests and the seizure of an array of manufacturing equipment and hundreds of thousands of counterfeit airbag parts.
- **Creating and providing educational materials** warning of the dangers of counterfeit auto parts to consumers, dealers, industry partners, law enforcement, prosecutors and the media.
- **Providing training** to U.S. Customs and Border Protection (CBP), Homeland Security Investigations (HSI), the Federal Bureau of Investigation (FBI) and local law enforcement by hosting over 50 training sessions. Over 1,000 officers have been trained in the U.S. and abroad.
- **Testifying before Congress and meeting with policy makers** to educate on the need for enforcement and necessary reform.
- **Supporting new legislation or the enhancement of existing laws** making it a criminal offense to knowingly sell, import, manufacture or install counterfeit supplemental restraint system (SRS) components or non-functional airbags. To date, 25 states have implemented such laws.

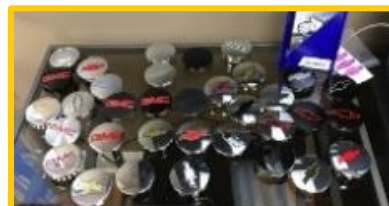
⁴ *I-Team: Fake Airbag Filled with Black Tape, Shop Rag Found in Deadly Crash*, CBS-DFW11, February 25, 2019. <https://dfw.cbslocal.com/2019/02/25/fake-airbag-filled-black-tape-shop-rag-deadly-crash/>

To disrupt the sale of counterfeit automotive parts, A2C2 works collaboratively with law enforcement on civil and criminal investigations.

Examples of recent investigations include:

Thomasville, Georgia

- The target imported counterfeit wheel center caps from China and domestically. Over 375 shipments were imported in a two-year period.
- The target installed caps on non-OEM (original equipment manufacturer) wheels and sold them as genuine wheels.
- Homeland Security Investigations seized approximately 4,000 center caps, 1,300 wheels and thousands of counterfeit labels; investigation revealed more than \$11 million in sales. The target pled guilty to trafficking in counterfeit goods.⁵



Sacramento, California

- A2C2 members conducted test buys of airbag covers being sold online and confirmed they were counterfeit.
- HSI raided location and seized over 1,200 airbag components and 400 emblems, with estimated retail value of \$1.25 million.
- Six A2C2 members participated by authenticating the items. The target pled guilty to five counts of mail fraud.⁶



Buffalo, New York

- A2C2 members conducted test buys of airbags being sold online and confirmed they were counterfeit.
- IPR Center referred the lead to HSI Buffalo. Search warrant led to seizure of 31 counterfeit airbags representing six automakers.
- Seized records revealed previous sales of more than 400 counterfeit airbags. The target pled guilty to trafficking in counterfeit goods.⁷



⁵ *Thomasville Business Owner Pleads Guilty to Importing and Distributing Thousands of Counterfeit Car Parts*, U.S. Dept. of Justice, April 1, 2019. <https://www.justice.gov/usao-mdga/pr/thomasville-business-owner-pleads-guilty-importing-and-distributing-thousands>

⁶ *Antelope Man Pleads Guilty to Selling Counterfeit Airbags Online*, U.S. Dept. of Justice, May 31, 2017. <https://www.justice.gov/usao-edca/pr/antelope-man-pleads-guilty-selling-counterfeit-airbags-online>

⁷ *Two Men Charged with Importing and Selling Counterfeit Airbags*, U.S. Dept. of Justice, October 24, 2016. <https://www.justice.gov/usao-wdny/pr/two-men-charged-importing-and-selling-counterfeit-airbags>

High global demand for automotive parts makes them an extremely attractive target for counterfeiters, who are unconcerned with quality, durability, regulations or safety.

The results of a May 2019 raid in China, which led to the seizure of 163,476 counterfeit airbag parts, demonstrate the substantial capacity of counterfeit operations.



The raid action was simultaneously launched in six cities of five Chinese provinces and resulted in the arrest of 14 people.

The seized records indicate counterfeiters operated for more than five years, impacting eight different major automotive brands and shipping counterfeit parts to 45 different countries.



The raid was the result of a joint effort between A2C2 member companies, their affiliate operations in Japan and China, U.S. and Chinese law enforcement agencies and the online marketplace where the products were being sold.

This successful raid demonstrates the positive impact of coordinated efforts by brand owners, law enforcement and online marketplaces.

In addition to consumer safety, A2C2 notes that the sale of illicit counterfeit automotive parts has created significant financial consequences for automobile manufacturers. The Department of Commerce reported that despite ongoing anti-counterfeiting efforts worldwide, the problem is growing, citing reports that the cost of counterfeit parts to the American automotive supplier industry increased from \$12 billion annually worldwide in 1997 to \$45 billion in 2011.⁸ The problem has only grown further since then.

⁸ *On the Road: U.S. Automotive Parts Industry Annual Assessment*, U.S. Department of Commerce, <https://legacy.trade.gov/td/otm/assets/auto/2011Parts.pdf>

Factors Contributing to the Proliferation of Counterfeit Automotive Parts Online

First Contributing Factor: Online marketplaces have taken a hands-off approach to the third-party products sold through their platforms.

The growth and increased consumer confidence in e-commerce marketplaces have accompanied a steady increase in the online availability of counterfeit products. Taking advantage of the lack of seller or product verification online, counterfeiters avoid many safeguards that are in place to protect consumers. While the ease and convenience of online marketplaces benefit legitimate companies, and particularly growing companies and entrepreneurs, they also provide opportunities for unscrupulous and illegitimate sellers to prosper. As a result, when consumers turn to an online marketplace, they typically discover not only authorized dealers, but also counterfeiters who appear to be equally genuine.

Online marketplaces' hands-off approach to third-party products sold through their platforms has created a system with little-to-no verification of sellers, their products or their supply chains, thereby establishing a fertile environment for counterfeiters to thrive and multiply.

- **The initial entry for sellers to online marketplaces is often as simple as setting up an account with a unique email address.** The extent to which online marketplaces require additional credentials varies. When credentials are required, they are often not verified, allowing the seller to provide incomplete, incorrect or false information. Indeed, based on seller information that rights holders have received from marketplaces, the collection and verification of seller data appears incomplete. For example, an A2C2 member obtained from one established marketplace the seller data for sellers reported for offering counterfeit goods. The A2C2 member analyzed the addresses and determined that of 34 sellers with foreign addresses, 24 percent were verifiable, 15 percent were only partially verifiable and the remaining 61 percent were completely unverifiable.
- According to A2C2's review of counterfeit seller data provided by one marketplace, 76 percent of foreign-seller addresses were completely or partially unverifiable.*
- **Without verified contact information, it is nearly impossible for rights holders, consumers or law enforcement to trace and enforce at the source.** Instead, the counterfeiter hides behind the anonymity that the marketplace allows, leaving consumers, brands and law enforcement without recourse. Furthermore, without verified seller information, counterfeiters can easily set up multiple accounts without an easy way to connect those accounts, switching from one account to another when their activities are discovered, meaning the counterfeit products remain available even when one of their multiple seller accounts is disabled.

- **Online marketplaces do not effectively verify or monitor the goods offered by the sellers on their sites or in their supply chains.** The result is that the online availability of counterfeit products remains rampant. Marketplaces largely take no responsibility for the third-party products offered on their sites except to offer refunds or replacements.

Marketplaces may offer refunds or replacements but otherwise claim little responsibility for the products they make available.

- **The online marketplace model allows counterfeiters to conceal their activities.** Counterfeiters' tactics include categorizing their products under a rights holder's brand name, piggybacking on legitimate listings, using specific keywords, employing image scraping and pricing strategically at or near that of legitimate products. As a result, it is often difficult for brand holders and subject matter experts to identify infringements, and more difficult for even the most discerning consumer to identify illegitimate product.
- **Online marketplaces enable counterfeiters to evade laws and regulations that are designed to protect consumers.** Counterfeiters continue to thrive by marketing parts or items bearing the identical original equipment manufacturer (OEM) trademark and/or design to unsuspecting consumers, evading safety regulations and taking advantage of the current lack of pertinent laws and regulations on e-commerce. When necessary, A2C2 supports legislation that places the responsibility and liability with online marketplaces for the products offered and sold on their sites. The most current list of legislation supported by A2C2 can be found at [A2C2.com](https://www.a2c2.com).

Second Contributing Factor: The burden of policing third-party sellers is disproportionately placed on brand owners and consumers.

- **Most anti-counterfeit programs offered by established online marketplaces are reactive and require brand owners and consumers to find and report counterfeits back to the marketplace.** Consequently, rights holders must dedicate extensive time and resources to scour online marketplaces and upon discovery of counterfeit products, investigate, report and prove to the marketplace that the product is a counterfeit. This reactionary system requires the brand owners to understand, navigate and manage each marketplace individually.
- **Marketplace business models differ, methods to report counterfeits vary, and responses to reports remain inconsistent between marketplaces and even within a marketplace.** Take-down programs have not been consistently implemented in the industry, complicating and making the task even more difficult. Many new, emerging or less-established marketplaces are especially slow to respond or less cooperative in removing counterfeits.
- **Enhanced reactive programs are insufficient.** Some more-established marketplaces have developed anti-counterfeit programs that allow rights holders to report counterfeit sellers more efficiently. While the engagement by marketplaces and the offering of new programs is positive, it does not address the root problem that the counterfeits are on the marketplace. These enhanced programs are largely still reactive as opposed to preventative; they do not

Reactive take-down systems cannot keep up with the counterfeiters, who will always be a step ahead. Proactive measures that prevent counterfeits from appearing on the marketplace—and ultimately in consumers' vehicles—are necessary.



proactively prevent the counterfeits from appearing on the marketplace and ultimately getting into consumers' vehicles.

- **The enhanced programs offered by some more-established marketplaces are ill-fitted and do not resolve the burden placed on rights holders and consumers.** Many enhanced programs are invitation-only, introduced as limited pilot or test programs, or require rights holders to agree to terms and conditions that tend to favor the marketplaces, or even require monetary payment by the rights holder.
- **Behind-the-scenes take-down efforts by marketplaces are not yielding apparent improvement.** Some more-established marketplaces claim to remove many more listings than are reported by triangulating seller accounts or using other methods of connecting the listings. While the marketplaces may do this to varying degrees in the background, they do not disclose the details of these efforts. The results are not evident because the counterfeit problem has continued to grow, with more counterfeit products entering the stream of commerce. Certainly, A2C2 members have not seen a decrease in counterfeit automotive parts online despite marketplace claims of action behind-the-scenes.

Third Contributing Factor: Consumers are largely unaware of the scope of counterfeit product offered online and generally trust online marketplaces and the products they offer.

- **Consumers display a comfort with and trust in online marketplaces.** Many online marketplaces now have an established and trusted brand image equal to that of brick-and-mortar retailers. The demand for convenience, low prices and faster delivery has created a ripe environment for online marketplaces to flourish.

Consumers trust online marketplaces and frequently equate them with large brick-and-mortar retailers, believing them to be subject to the same responsibility for the products they offer.

- **Consumers are unaware that some products on online marketplaces are counterfeit.** Many consumers believe that the offerings online are more akin to brick-and-mortar retailers. Many do not realize the lack of regulation of the third-party sellers and thus are unknowingly putting themselves or their customers (in the case of automotive repair shops) at risk.
- **In the case of automotive parts, the ultimate consumer may not be the purchaser and is thus unaware of the danger.** Auto repair facilities often purchase replacement parts online and if purchased from a seller other than an authorized dealer, may purchase counterfeit parts. The ultimate consumers of the auto parts—the vehicle owners—are typically wholly unaware of the possibility that counterfeit parts can be purchased online by a repair facility and installed in their vehicle.
- **The inability for the consumers to truly know what or from whom they are buying may be exacerbated by the online marketplaces that warehouse products and fulfill orders.** To speed shipping, at least one marketplace uses the practice of shipping products from the warehouse closest to the consumer, regardless of whether it is the seller from which the consumer ordered, and without notice to the consumer. This practice results in consumers buying from one seller but unknowingly receiving product, possibly counterfeit, from a different seller. A2C2 discourages marketplaces from using or adopting this practice, as it creates further uncertainty for consumers.



Proposed Solutions for Minimizing the Proliferation of Counterfeits Sold Online

A2C2 believes that only when marketplaces are held accountable for the products they offer and sell, will solutions of proper scale and effectiveness be developed and implemented.

First, online marketplaces—just like traditional brick-and-mortar retailers—should implement industry best practices to validate the sellers and products offered on their platforms.

The collection and sharing of verified seller contact and banking information will increase the ability of all stakeholders to stop counterfeiters at the source and allow the online marketplace to better track, triangulate and decrease the reappearance of the same bad actors on the online marketplace under new accounts. Online marketplaces—just like traditional brick-and-mortar retailers—should implement industry best practices to verify the products sold on their platforms. To work toward this sort of transparent and effective system, A2C2 proposes the following best practices:

- **Improve seller verification to eliminate falsified data.**

Automakers have direct supply chains and can demonstrate that they sell their genuine parts through authorized dealers and channels, which can easily be verified and identified for the consumer. A2C2 proposes that marketplaces improve the vetting of sellers, suppliers and products by implementing more stringent requirements that validate seller

Prior to opening a seller account, online marketplaces must collect and verify through government identification and other documents the seller's contact and banking information.

credentials and product authenticity (especially if sellers are associated with high-risk regions; for example, approximately 85 percent of the contraband seized by CBP arrives from China and Hong Kong). Furthermore, prior to allowing account creation, online marketplaces must collect and verify through government identification and other documents the seller's contact and banking information.

- **Improve and execute seller triangulation.** Marketplaces must collect, verify and track seller information, including contact information, IP address and bank information, and then use this data to link, track and eliminate bad actors from their marketplaces. Traditional retailers and non-hobbyists, pursuant to the Internal Revenue Service, must have business licenses and tax identification, but oftentimes online sellers do not.

- **Engage in active policing, impose more stringent penalties and remove counterfeit sellers.**

Marketplaces must actively police their own sites, both independently and through in-depth investigation after reports from consumers and rights holders, to eliminate counterfeit products and sellers from the marketplace. Allowing sellers of counterfeit products to remain on a marketplace or to jump to a different seller account allows bad actors to continue to operate, selling unsafe products, and generating profits for themselves and online marketplaces. This is unconscionable, especially in cases where sellers offer products like auto parts, which impact public health and safety.

- **Require sellers to agree to a Platform Seller Acknowledgement Statement.** A2C2 proposes that marketplaces require at a minimum:
 - a) that third-party sellers verify and attest to the authenticity of goods in connection with or on which a registered mark is used;
 - b) that as a condition of participating on the platform, third-party sellers be contractually required not to use a counterfeit mark in connection with the sale, offering for sale, distribution or advertising of goods on the platform;
 - c) that the third-party seller consent to the jurisdiction of United States courts with respect to claims related to the third-party seller’s participation on the platform.

- **Prohibit airbag sales.** The sale of counterfeit and recalled airbags and supplemental restraint system (SRS) components, such as airbag covers, which are a necessary precursor to a counterfeit airbag, poses a very real danger to the global consuming public. A2C2 has met with personnel at many major online marketplaces to express concern and provide education on these dangers. As a result, some online marketplaces have amended their policies to prohibit the listing and sale of these components. Best practices must prohibit the online listing and sale of all airbags and SRS components.

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Second, law enforcement, brand owners and online marketplaces should collaborate to trace counterfeiters.

When marketplaces improve transparency regarding the seller and products, and engage collaboratively with brand owners, law enforcement, and U.S. and foreign governments, successful investigations can be conducted. An example is the Chinese raid described above that led to the seizure of unsafe counterfeit products at the source.

To accomplish this, A2C2 proposes that online marketplaces implement the following best practices:

- **Share information regarding the seller.** To start, marketplaces should conspicuously provide verified identity and contact information for all sellers on the seller listing. Thereafter, additional seller information, such as IP address, bank information and sales data, should be shared as needed for enforcement. Standards and requirements for marketplace information-sharing efforts must be established, as no known protocol exists for the consistent and timely sharing of actionable information about counterfeiters with law enforcement, Customs and Border Protection, Homeland Security Investigations, brand owners or other stakeholders.

- **Require that the seller have a verified and legitimate U.S. contact.** Many sellers of counterfeit items are located outside the U.S. and utilize the marketplace or a drop-shipper location as the U.S. importer of record or ultimate consignee, eliminating a legitimate or verified U.S. contact for the seller. As a result, enforcement becomes more challenging for consumers, rights holders and law enforcement. A2C2 proposes that either the marketplace ensure a verified importer of record is identified or the marketplace must be held responsible as the importer of record.

Third, enhanced consumer education should be provided both before and after purchase.

A2C2 proposes that marketplaces promote consumer awareness on their sites and that consumers who may have purchased safety-related counterfeits be immediately informed. To accomplish this, A2C2 proposes that online marketplaces implement the following best practices:

- **Provide consumer education.** Educating consumers will enable them to make better purchasing decisions and help avoid falling victim to counterfeit products. A2C2 proposes that marketplaces promote consumer awareness on their sites and implement a simple and conspicuous way for consumers to report bad actors to those who can take proper action.
- **Provide conspicuous identity and contact information on the sellers' product listing.** Marketplaces must make available verified seller information, including location and contact information.

Marketplaces should make available verified seller information, including location and contact information, on the face of the product listing.
- **Indicate whether the seller is an authorized dealer or reseller.** Marketplaces can determine and verify whether a parts seller is an authorized dealer or reseller through very clear and well-established dealer networks or other documentation. At least one marketplace already does this.
- **Eliminate shipping practices that change the seller.** Marketplaces that fulfill orders store the seller product in the marketplaces' own warehouses and at least one, to facilitate shipping, ships products from the warehouse closest to the consumer, regardless of whether it is the seller from which the consumer ordered. This practice results in consumers buying from one seller but unknowingly receiving product from a different seller. Marketplaces should either eliminate this practice or provide consumers with notice and the option to select a different seller.
- **Notify consumers who have or may have received counterfeit products.** Once a marketplace is aware that a seller has sold counterfeit products, the marketplace should inform all potentially affected consumers that the products they have received may be counterfeit and unsafe. Further, the marketplace should investigate other products sold by that seller and, if they are determined to also be counterfeit, notify purchasers of those as well. Finally, the marketplace should replace all counterfeit products with legitimate versions at no cost.

Once a marketplace is aware that a seller has sold counterfeit products, the marketplace should inform all potentially affected consumers that they may have received counterfeit and unsafe products.



Additional Issues that Impact Anti-Counterfeiting Efforts

In addition to the concerns in this position paper, A2C2 is aware of several other emerging and existing issues that contribute to the growing counterfeit problem and pose added challenges for those fighting the battle. These include the following:

- **The proliferation of social media marketplaces and apps.** As part of the growth and evolution of e-commerce, social media marketplaces connect unsuspecting consumers to counterfeiters across the world, and are even more challenging to monitor, particularly with the prevalence of private groups on those platforms.
- **The increase in false reviews.** False reviews are becoming more prevalent given the ability of sellers to connect with individuals and offer them free products or other benefits for posting positive reviews.
- **Advances in 3-D printing and similar technology.** Advances in design and manufacturing technology make it easier to replicate part types, exacerbating counterfeit production.
- **Drop shippers.** The growing use of drop-ship facilities by third-party sellers to hide both their identities and the source of goods being distributed has coincided with the explosion in the use of e-commerce marketplaces. Drop shippers, much like e-commerce platforms, should be accountable for what passes through their facilities.
- **Data privacy laws.** New laws are creating hurdles and restricting the ability of e-commerce platforms to share counterfeiters' information with rights holders.

Despite these challenges, the stakes are too high and the safety of consumers who shop online is too important for these issues to go unaddressed. **A2C2 remains optimistic that collaborative and effective measures to eliminate counterfeit automotive items from online marketplaces will be implemented.**

For more information, including the current list of [states with enhanced counterfeit airbag laws](#), visit www.a2c2.com.

