



## Intellectual Property Law

### LEAD OFFICER

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Lead Officers Group

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Membership of the EU has had a significant impact on the UK framework for intellectual property (IP) rights. The UK systems of IP protection exist in parallel with the European and international systems. We must retain compatibility with these systems to ensure that the UK can trade on a global basis.


Put simply, the protection and enforcement of IP rights is crucial to UK businesses, and necessary to safeguard consumers from the dangers of inferior counterfeit products. IP rights are a central part of the modern global marketplace and the UK will need a fit-for-purpose IP legal framework to be competitive post-EU Exit.

The UK government has realised these factors in the negotiations with the EU regarding the future relationship. IP features in:

- the Withdrawal Agreement;
- the Political Declaration;
- the 'Future Relationship with the EU:

The UK's Approach to Negotiations' policy paper; and

- the draft text of the Comprehensive Free Trade Agreement (CFTA)

**3%** 

### SIZE OF UK COUNTERFEIT AND PIRATED GOODS IMPORTS, EQUIVALENT TO GENUINE GOODS.

Leaving the EU poses risks for the importation and exportation of infringing counterfeit and pirate goods. Post-EU Exit, the status of the UK as a third country raises many questions about the extent to which imports of trade mark-infringing goods can be enforced. The UK should not become a target for counterfeit goods from the EU or from any other new trading bloc.

## Threats

The Withdrawal Agreement has addressed many of the threats to existing IP Rights highlighted by CTSI, namely the status of:

- EU or Community Registered Trade Marks
- Registered Community Designs
- Unregistered Design Rights

The UK will automatically create new comparable or equivalent rights from January 1, 2021, ensuring rights holders do not suffer any loss of protection as a result of the EU Exit.

**59%** 

### OF FAKE CLOTHING AND FOOTWEAR IS BOUGHT BY CUSTOMERS WHO KNOW THEY ARE GETTING FAKE.

Existing EU or Community Trade Marks (EU or CTMs) will have protection in the UK until the post-EU Exit transition period ends on December 31, 2020. There is a need to address the anomalies between rights in relation to infringements and criminal offences for importing and exporting counterfeit and pirate goods. Such confusion undermines enforcement capabilities and helps criminals to exploit weaknesses in the framework. It is vital that reciprocal protections and enforcement actions are retained to fight IP crime and ensure that the UK can join EU partners in tackling markets for fake goods.



For more information about how EU Exit could affect trading standards, and to take the EU Exit training course, visit [www.tradingstandards.uk/euexit](http://www.tradingstandards.uk/euexit)



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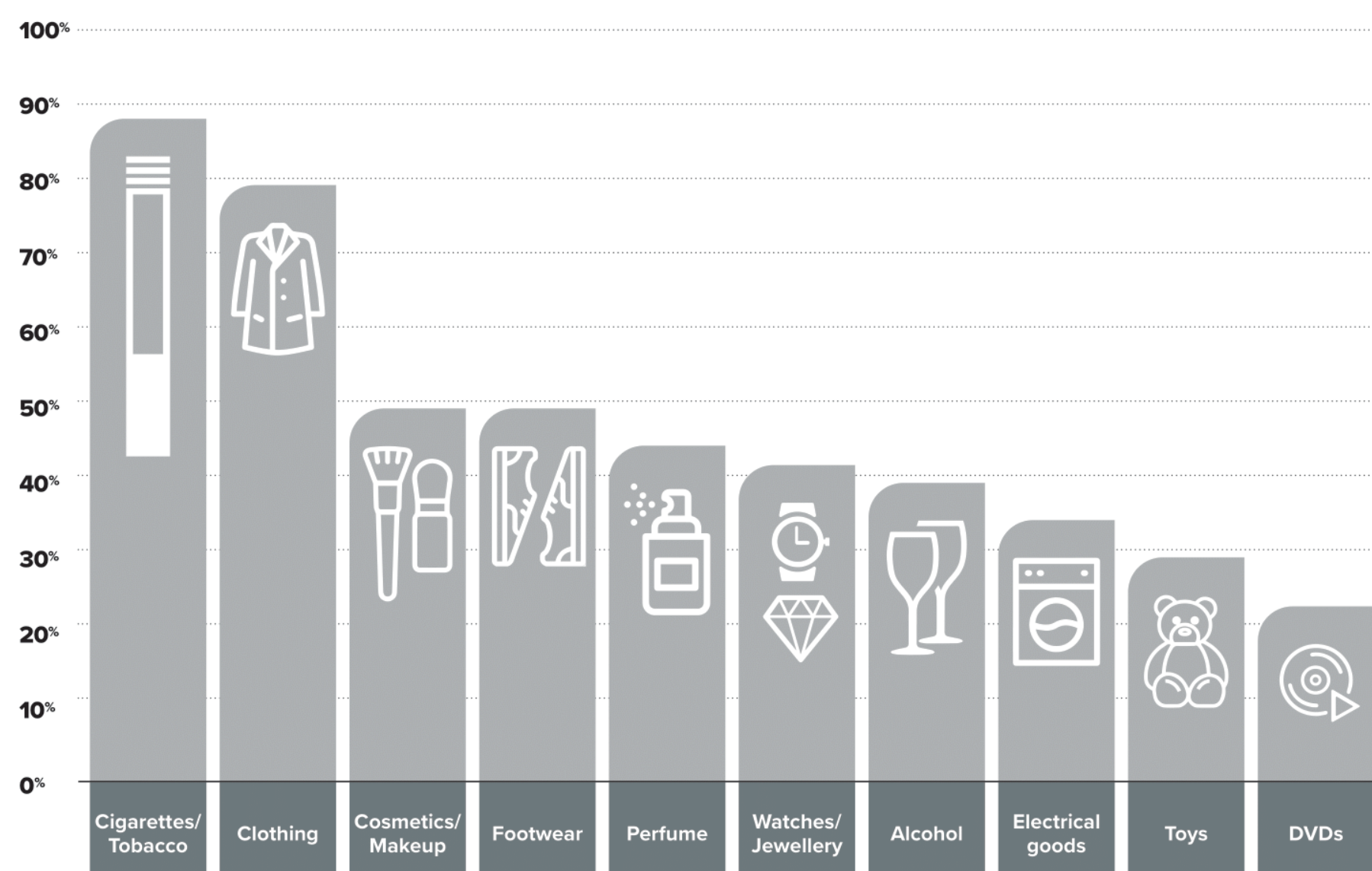
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### Opportunities

Post-EU Exit, the UK will no longer be a member of the various European IP systems. However, businesses will still be able to register European Trade Marks (EUTMs or CTMs) and Registered Community Designs (RCDs) by applying to the European Intellectual Property Office (EUIPO) in order to gain protection in the remaining 27 member states. Alternatively, a UK business could make an application to the World Intellectual Property Organisation (WIPO) for international trade mark or design registration, designating the EU as a protected territory.

#### Top ten counterfeit/ pirate investigated products by trading standards

Percentage of authorities responded



#### Organised criminal gangs

A EUIPO and Europol 2020 report, 'IP Crime And Its Link To Other Serious Crimes', confirmed that IP crimes are an important source of income for organised criminal gangs. These gangs are often engaged in other areas of criminality such as illegal drugs, human trafficking and money laundering. While the EU's borders have always faced the threat of counterfeit goods – predominantly from China and the Far East – post-EU Exit, UK customs will be on the frontline of the UK's defences against counterfeit and pirate goods and trading standards have a key role to play in supporting them.

It is local trading standards officers and specialist teams that are at the forefront of tackling counterfeiting and piracy in the internal market, but the UK's capacity for enforcement actions is undermined by drastic cuts to local services. This is an issue vital to legitimate trade, consumer protection and the health of the UK economy.



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