

Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600

14 April 2026

Dear Committee Members,

Submission: Customs Legislation Amendment (False Trade Marks Infringement Notices) Bill 2026

The Consumer Electronics Suppliers Association (**CESA**) welcomes the opportunity to comment on the *Customs Legislation Amendment (False Trade Marks Infringement Notices) Bill 2026*, which was introduced into Parliament on 25 March 2026.

CESA is a peak industry body representing a number of manufacturers and retailers of consumer electronics, home appliances, and other electrical equipment in Australia. Our members include major brands owners and suppliers of a wide range of household electrical products including televisions, home entertainment systems, computers, monitors, whitegoods, cooking appliances, small appliances, accessories, and air conditioning units.

1. Why CESA supports the Bill

CESA supports the Bill because it strengthens border enforcement options against counterfeit imports by creating a new compliance tool that sits alongside existing seizure arrangements.

From CESA's perspective, the Bill improves outcomes for:

- **Consumers**, by reducing the inflow of counterfeit goods that may be substandard;
- **Legitimate businesses**, by discouraging importation that undermines compliant supply chains; and
- **Border enforcement**, by providing an additional regulatory response short of prosecution, thereby supporting proportional enforcement.

2. Why CESA members seek an expansion to cover knock-offs and “dupe” products

While the Bill is a welcome and practical reform, CESA members have advised that a significant and growing problem in the electrical product market involves **intentional knock-offs, “dupes”, and look-alike/compatibility products** that may avoid using a registered trade mark (or may use marketing techniques that sit just outside a “false trade mark” threshold) yet still:

- **mislead consumers** about origin, quality, or compatibility; and/or
- create **serious product safety risks**, particularly with **lithium-ion batteries and chargers**.

The Bill's current focus is on goods bearing false trade marks and on the capacity to issue infringement notices for that conduct.

CESA members' experience is that many high-risk "dupe" products may be presented using phrases such as "**suitable for**" or other compatibility claims and can be designed to resemble genuine products closely enough to confuse consumers - without necessarily presenting as a straightforward trade mark counterfeit at the point of import assessment.

For this reason, after consulting with members, CESA would support consideration of **widening the scope of the Bill** (or introducing a complementary mechanism) to address **intentional knock-offs and deceptive "dupe" products**, particularly where there is credible evidence of **elevated safety risk** (for example, e-scooters, e-bikes and associated "suitable for" lithium-ion batteries and chargers, pool chlorinators and refrigerator water filters).

3. Member examples illustrating the risk posed by knock-offs/dupes (de-identified)

We include de-identified member accounts that illustrates the practical consumer safety and enforcement challenges posed by "suitable for" and counterfeit goods to illustrate why an expansion should be considered.

Example A - Knock-offs sold through an authorised reseller channel

A member became aware that an **authorised reseller** of the member's branded products was also selling **knock-off versions**. When approached, the reseller reportedly responded that "**everyone is doing it.**" A member received multiple customer complaints of **premature failures and an injury report** linked to a power tool failure. Photographs provided by the user showed a third-party battery marked as "suitable for" the branded tool, rather than bearing the brand trade mark. The members investigation found that third-party battery's internal electronics to be materially less robust than the genuine article. In particular, the counterfeit product **lacked the necessary Battery Management System (BMS) capabilities to communicate with the tool and safely shut down under fault conditions**.

Example B - Small websites selling "fake" batteries and publishing misleading reassurance

Members have observed smaller websites selling "fake" batteries - "fake" in the sense that they do not contain the **same level of technology and safety controls** as genuine products—while also asserting or implying that the products are "just as safe". Members

consider this a form of **misinformation** that may lead consumers to underestimate risk. It also creates downstream issues when an incident occurs, because consumers may assume the product is genuine, increasing the difficulty of promptly attributing responsibility.

Example C - Injury report involving a tool failure associated with a suspected fake battery

A member received an **injury report** after a user's power tool failed utilising a fake battery. The member formed the view that the battery likely contributed to abnormal tool performance. However, the user disposed of the battery before it could be examined, preventing confirmation through forensic assessment. This example highlights the practical difficulty of investigation after the event, and the need for stronger prevention and border controls.

Example D - Shorter Product Life and Substandard Quality

A member also noted broader market evidence: generics for similar products typically retail at a lower RRP and demonstrate **substantially shorter product life** (commonly failing after 2 -3 years versus 5 -8 years for the genuine product). Reviews and returned items routinely show defects such as incorrect threading, inferior materials and cell mismatches that lead to leakage, failure and safety risks. **Customers who experienced premature failure were often unaware they had purchased a non-genuine product**, complicating remediation.

Members in the pool equipment sector have observed bait advertising and generic replacements offered as drop-in substitutes for multiple branded chlorinators and electrodes. These products are typically not being designed to carry the genuine product's load or match cell specifications:

- Generic power supplies advertised as replacements are often rudimentary and unsuitable for required current control, risking power supply failure and reduced electrode life (examples cited: tropicalpoolstore.com.au product pages).
- Replacement electrodes must be matched to the manufacturer's power supply; mismatched electrodes can overload the supply or under-perform, shortening service life and causing leakage or failure.

Members have also reported widespread instances of "replacement" refrigerator water filters being marketed online and sold as if they were genuine. The counterfeit filters are priced 60% - 30% lower than the genuine part and the following consequences have been observed:

- leakage and premature degradation of seals and materials causing property damage; and

- reduced performance leading to customer dissatisfaction and potential health concerns.

The above examples illustrate how deceptively marketed counterfeits can evade trade mark focused enforcement while causing tangible safety, performance and reputational harm.

4. What an “expanded approach” could look like (high-level)

CESA recognises that the Bill is specifically designed to address **false trade marks** and to enable infringement notices in that context. However, members encourage policymakers to consider whether an **adjacent or expanded mechanism** could better address high-risk knock-offs/dupes by:

- capturing goods that are **deliberately presented to create a false association** with a brand (including via “suitable for” representations), where evidence indicates consumers are likely to be misled; and/or
- enabling targeted action for categories of goods where there is a clear **product safety dimension** (noting the heightened risk profile of lithium-ion batteries and chargers).

Any expanded approach should be carefully drafted to preserve proportionality and avoid unintended capture of legitimate compatible products supplied with appropriate disclosures and safety evidence.

5. Guidance

CESA considers that manufacturers, importers, retailers and rights holders will need clear guidance on how the proposed infringement notice regime will operate in practice, including how it will interact with the existing Notice of Objection process. Clear and consistent ABF guidance will be important to support confidence that the regime remains focused on goods bearing false trade marks and is applied consistently.

CESA encourages the Government and ABF to support the new regime with practical operational guidance, particularly in relation to:

- how the infringement notice scheme will operate alongside existing customs and trade mark processes;
- how the regime will apply to compatibility claims or other representations that may suggest an association with branded goods, especially in higher-risk categories; and
- the role of rights holders within the regime.

6. Conclusion

CESA supports the Bill as an important measure that adds a practical enforcement option and an additional deterrent against the importation of counterfeit goods bearing false trade marks, through the creation of a strict liability offence and inclusion in the Customs Infringement Notice Scheme.

We also urge the Committee to consider complementary reforms to address deceptive “suitable for” and “dupe” products - particularly in high-risk electrical categories such as lithium-ion batteries, chargers and power supplies, where consumer confusion and safety outcomes can be severe and where existing regulatory pathways may not always provide timely, effective preventative action at the border.

Please do not hesitate to contact CESA if the Committee would like further input or additional examples.

Yours sincerely,



Evelyn Soud
Chief Executive Officer