

9 April 2026

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

Export Council of Australia (ECA)

The Export Council of Australia (ECA) welcomes the opportunity to comment on the Customs Legislation Amendment (False Trademarks Infringement Notices) Bill 2026. As Australia's peak industry body representing both importers and exporters, the ECA supports measures that strengthen the integrity of Australia's trading system and protect legitimate businesses engaged in international commerce.

Counterfeit goods continue to undermine Australia's trade competitiveness, distort markets, and impose significant financial and reputational harm on rights holders. In 2024–25, the Australian Border Force (ABF) seized more than 770,000 counterfeit items, with an estimated genuine retail value exceeding \$35 million. These goods not only damage Australian brands but also expose consumers to unsafe products, particularly in high-risk categories such as electronics, cosmetics, and personal goods.

The current enforcement framework places a disproportionate burden on trademark owners, especially small and medium enterprises who often cannot afford the cost of civil litigation. This financial barrier frequently results in counterfeit goods being released back to importers, weakening deterrence and eroding confidence in the system. The proposed infringement notice scheme provides a practical and proportionate alternative that introduces a meaningful financial consequence for counterfeit importers while avoiding the prohibitive costs associated with civil action.

Importantly, the scheme does not expand the scope of goods or importers targeted for compliance action. It simply strengthens the existing process and enhances deterrence at the border. The ECA also supports the inclusion of a strict liability offence, which is necessary to align the new offence under the Commerce (Trade Descriptions) Act 1905 with the existing Infringement Notice Scheme under the Customs Act 1901. This approach is consistent with other established customs-related offences and reflects the seriousness of the economic and consumer safety risks posed by counterfeit imports.

The ECA notes and supports that only the actual importer of counterfeit goods will be subject to infringement notices. Customs brokers, freight forwarders, and other supply-chain participants will not be penalised under this proposal. This is an important safeguard for the broader trade community and ensures that compliance action remains appropriately directed. The Bill also preserves ABF officer discretion, allowing officers to consider first-time offences, genuine mistakes of fact, the type and quantity of goods, and potential consumer harm.

## Protecting Australian Exporters in Global Markets

The ECA emphasises that strengthening Australia’s domestic enforcement regime has important implications for the protection of Australian exporters in overseas markets. Australian businesses increasingly compete in global value chains, and the integrity of their brands is central to their competitiveness abroad. When counterfeit goods circulate freely in any market including Australia’s, they erode brand value, undermine consumer trust, and weaken the international reputation of legitimate Australian exporters.

By enhancing the credibility and effectiveness of Australia’s own border enforcement, this Bill supports Australia’s ability to advocate for reciprocal protections in foreign markets. Strong domestic action reinforces Australia’s commitments under international agreements such as the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and strengthens our position when seeking improved IP enforcement outcomes in bilateral and regional trade negotiations.

Australian exporters rely on predictable, rules based trading environments overseas. Demonstrating that Australia upholds high standards at home helps ensure that our trading partners do the same. This alignment is essential for protecting Australian brands from counterfeiting in foreign markets, supporting export growth, and maintaining the competitiveness of Australian goods and services internationally.

## Conclusion

As an organisation committed to supporting both importers and exporters, the ECA views this Bill as a positive step toward strengthening Australia’s reputation as a safe, reliable, and rules-based trading nation. Reducing the flow of counterfeit goods into Australia protects legitimate businesses, supports fair competition, enhances consumer safety, and reinforces the international IP protections that Australian exporters depend on.

For these reasons, the Export Council of Australia supports the passage of the Customs Legislation Amendment (False Trademarks Infringement Notices) Bill 2026.

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