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Ref: 11.1.25a – 10 April 2026

Sen. Jana Stewart
Chair
Senate Legal & Constitutional Affairs Legislation Committee
PO Box 6100 – The Senate
Parliament House
CANBERRA ACT 2601

Dear Senator

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

The Auctioneers and Valuers Association of Australia (AVAA) welcomes the opportunity to provide this submission to the Parliamentary Inquiry reviewing the *Customs Legislation Amendment (False Trade Marks Infringement Notices) Bill 2026 (Cth)*. AVAA is the national peak body representing auctioneers and valuers operating across diverse sectors including fine art, antiques, collectables, goods, vehicles, plant and equipment. We have reviewed the legislation from the perspective of the goods that our members deal with.

The Bill represents an important and timely evolution in Australia's intellectual property enforcement framework, particularly in addressing the importation of counterfeit goods. As a sector that operates at the intersection of market trust, asset authenticity and value determination, auctioneers and valuers have a direct and practical interest in the effectiveness of these reforms.

At its core, the Bill introduces a new strict liability offence for the importation of goods bearing false trade marks and brings that offence within the Customs Infringement Notice Scheme. This reform addresses a recognised gap in the current framework, where importers of counterfeit goods may face limited consequences beyond the seizure of goods. The introduction of infringement notices provides a more immediate and proportionate enforcement response, strengthening deterrence without requiring costly and protracted litigation.

AVAA welcomes the approach where the Bill is designed to complement existing intellectual property enforcement mechanisms, rather than replace them. It adds a practical enforcement tool that can be applied at the border, improving the overall effectiveness of Australia's response to counterfeit goods.

Importance To Auction and Valuation Markets —

From the perspective of auctioning and valuing collectables and high-value items, the Bill's policy intent is strongly supported by AVAA. The markets in which these professionals operate rely fundamentally on authenticity, provenance and confidence. Whether dealing in fine art, jewellery, luxury goods, rare collectables or specialist machinery, the presence of counterfeit goods undermines not only individual transactions but the credibility of entire market segments.

Auctioneers and valuers play a central role in establishing and maintaining market confidence. Auctioneers bring goods to market and facilitate price discovery, while valuers provide independent and evidence-based assessments that underpin insurance, finance, estate settlements and legal processes. In both cases, the authenticity of goods is foundational.

The introduction of counterfeit goods into Australia directly affects valuation accuracy, risk exposure and professional liability. Even a small number of counterfeit items entering legitimate supply chains can distort comparable sales data, mislead buyers and create downstream disputes. The Bill's focus on disrupting counterfeit importers' economic model is therefore particularly important for preserving confidence in these markets.

Impact On High-Value And Collectable Items —

It is important to recognise that counterfeit goods are not limited to low-value consumer products. High-value items, including branded jewellery, luxury watches, artworks and designer goods, are increasingly subject to sophisticated counterfeiting. In these categories, the financial impact is amplified.

A single counterfeit item misrepresented as genuine can result in significant financial loss, reputational damage and legal exposure. In auction environments, where trust is essential and transactions can occur quickly, the consequences of counterfeit goods can be particularly acute. For valuers, the presence of counterfeit items can undermine the integrity of valuation methodologies that rely on comparable sales and market evidence.

The strengthening of border controls through infringement notices is therefore highly relevant to protecting both professionals and consumers operating in these markets.

Support For The Enforcement Approach —

The use of a strict liability offence is understood in the context of regulatory efficiency and deterrence. It enables enforcement without the need to prove fault, supports timely action, and allows the offence to operate effectively within the infringement notice scheme.

For the auction and valuation sector, this approach has clear benefits. It increases the likelihood that counterfeit goods are intercepted and penalised before entering the market. It also reinforces the message that importing counterfeit goods carries real and immediate consequences. At the same time, the inclusion of safeguards such as the defence of honest and reasonable mistake of fact, and defences relating to authorised use of trade marks, provides an appropriate balance. These elements help ensure that legitimate trade is not unduly impacted and that the regime remains proportionate.

Need for Practical Guidance —

While the Bill's framework is supported by AVAA, there is an opportunity to strengthen its implementation through clear, practical guidance. Auctioneers and valuers frequently deal with goods whose authenticity may not be immediately apparent and for which expert assessment is required.

Guidance on how the offence will be applied in practice would provide greater certainty. This could include clarification of evidentiary thresholds, the treatment of disputed authenticity, and how enforcement agencies will engage with expert opinions. Such guidance would assist both regulators and industry participants in applying the law consistently and effectively.



Complexity In Authenticity Assessment —

A related issue is the treatment of goods that sit within a ‘grey zone’ of authenticity. In markets such as art, antiques and collectables, questions of attribution, restoration, modification and historical use can be complex. There may be circumstances where marks have been altered or modified over time as part of the object’s history, rather than with an intent to deceive.

While the Bill appropriately targets deliberate counterfeiting, further clarity on how such cases will be assessed would be beneficial. This is particularly important for ensuring that enforcement action is directed at genuinely harmful conduct, while recognising the nuances of specialist markets.

Proportionality Of Penalties —

The penalty framework introduced by the Bill appears broadly appropriate and consistent with comparable regulatory regimes. The availability of lower penalties through infringement notices allows for flexibility and proportionality in enforcement.

AVAA recommends that the committee consider how penalties will operate in high-value markets. The financial scale of transactions in these markets can vary significantly, and it is important that penalties remain meaningful yet fair. Clear guidance on how penalties are determined in different circumstances would help achieve this balance.

Industry Education And Engagement —

The effectiveness of the Bill will depend not only on its legal framework but also on its practical implementation. Education and engagement with AVAA members and other stakeholders will be critical.

Auctioneers, valuers, and related professionals would benefit from targeted communication that outlines how the new regime operates. Practical examples, case studies and accessible guidance materials would support compliance and reduce the risk of unintended breaches. This is particularly important for smaller businesses that may not have access to specialist legal advice.

Collaboration With Industry Experts —

There is also an opportunity to strengthen collaboration between enforcement agencies and industry professionals. AVAA members working as auctioneers and valuers possess specialised expertise in identifying authenticity and understanding market characteristics of high-value items.

Structured engagement mechanisms, such as advisory groups or consultation processes, could support more informed enforcement decisions. This would enhance the regime's effectiveness while reinforcing its alignment with real-world market conditions.

Maintaining Market Confidence —

The Bill makes an important contribution to maintaining Australia’s reputation as a trusted marketplace for high-value goods. Confidence in authenticity is a key driver of both domestic and international participation in auction markets.

Strengthening protections against counterfeit imports supports not only individual transactions but the overall integrity of the sector. This has broader benefits for collectors, investors, cultural institutions and the wider economy.



The Bill also reflects the evolving nature of global trade and the increasing sophistication of counterfeit goods. Introducing a flexible and scalable enforcement mechanism positions Australia to respond effectively to emerging risks.

Consultation And Ongoing Review —

Stakeholder engagement is an important component of effective legislative design. As the Bill progresses, continued consultation with affected sectors, including auctioneers and valuers, will be valuable.

Ongoing engagement will support practical implementation, identify any unintended consequences, and ensure that the regime continues to operate as intended. A commitment to review the legislation's operation after implementation would also be beneficial.

AVAA supports the objectives and overall structure of the Bill. The introduction of a strict liability offence and the extension of the infringement notice scheme represent meaningful improvements to Australia's response to counterfeit imports.

These reforms are particularly important for markets dealing in collectables and high-value items, where authenticity is central to value and trust. They strengthen market confidence, support legitimate businesses and enhance consumer protection. At the same time, there are opportunities to enhance the Bill's effectiveness through additional guidance, industry engagement, and clarity in its application. Addressing these areas will support both enforcement outcomes and confidence among legitimate market participants.

With these considerations, the Bill represents a positive and constructive step forward in protecting Australia's markets, consumers and professional sectors.

Yours faithfully



Troy R Williams
AVAA Chief Executive