

**MODEL GUIDELINES
TO PREVENT THE SALE OF COUNTERFEIT AND PIRATED GOODS OVER THE
INTERNET**

In recognition of the fact that commerce via the Internet creates a new channel for the distribution of counterfeit and pirated goods, and that such use of the Internet not only causes serious infringement of intellectual property rights but also threatens the health and safety of consumers, APEC member economies adopted the following model guidelines to assist each member economy in implementing appropriate domestic measures to effectively prevent the sale of counterfeit and pirated goods over the Internet, recognizing existing constitutional and other legal requirements of member economies. These model guidelines are indicative references that may be useful to members in improving IPR protection and enforcement regimes; however, they do not mandate changes to existing law. Further, the model guidelines that apply to service provider action should be understood to be voluntary unless stipulated in the laws and regulations of the member economy in which the provider is operating.

MODEL GUIDELINES

1. Prohibition of using Internet Services for Selling Counterfeit and Pirated Goods

- Each member economy will prohibit the selling or offering for sale of counterfeit and pirated goods over the Internet.

- Internet service providers and service providers of virtual marketplaces, including Internet auction sites, (“service providers”) should maintain and publicize Terms of Use (TOU) which include the following:
 - Prohibition of using the service for selling or offering to sell counterfeit or pirated goods
 - Actions taken against users of the site who violate the TOU, such as takedown and termination of accounts, in cases of selling counterfeit or pirated goods

Such terms may optionally include:

- Specific examples of potentially infringing goods

2. Service Providers’ Measures against Infringement

- Service providers should take necessary measures against sellers, including restriction of access to the site, takedown, termination of accounts, and disclosure of registered

information of the seller, upon receiving claims from legitimate rights holders and confirmation of infringement.

- Service providers should provide a contact point for receiving and handling counterfeiting and piracy claims.

3. Preventing Anonymous Trade of Counterfeit and Pirated Goods

- Service providers should implement effective measures to collect and maintain the identifying information of sellers, which should be sufficient to identify the seller and to enable prompt and effective communication with the seller.
- With a view to eliminating anonymous trade in counterfeit and pirated goods over the Internet, sellers should disclose sellers' identifying information.
 - Specific examples of items to be disclosed by the sellers include, but are not limited to:
 - Seller's name or name of the company and its representative engaged in sales
 - Postal address of the seller
 - Phone number of the seller
- Service providers should take appropriate actions to enforce disclosure of identifying information.
- Service providers should take preventive measures against repeated non-compliance with disclosure of seller information.

4. Cooperation among Members

- Each member economy will provide contact information for an agency which will provide information on the member's efforts to deal with the problem of sales of counterfeit and pirated goods over the Internet.
- Member economies will cooperate with other members' domestic enforcement efforts to prevent the sale of counterfeit and pirated goods over the Internet.
 - APEC members will identify and exchange enforcement contact information.
 - APEC economies will build capacity by enhancing cooperation and sharing information and advanced practices.