

Intellectual Property: Facts and Consumer Opinions on Counterfeit and Pirated Goods

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I. Executive summary

Intellectual property (IP) represents original creative works and innovations belonging to inventors, businesses, artists, musicians and authors. The exclusive rights and legal protections of IP come in the form of copyrights, trademarks and patents. These protections encourage innovation and creativity, but they can be challenging due to widespread theft associated with counterfeiting and trafficking of pirated goods. Each year in the U.S., IP theft contributes to hundreds of billions of dollars of economic losses and results in hundreds of thousands of lost jobs. It also threatens the health and safety of consumers.

This study uses a survey of 1,000 adult U.S. citizens to assess consumer opinions on IP protection and the effects of piracy and counterfeit goods. The overall survey results show that consumers recognize the importance of IP protection and enforcement, and that consumers see the sale of counterfeit and pirated goods as having adverse consequences. The following highlights some of these results:

- 86 percent of U.S. citizens believe that protecting IP is a good way to encourage innovation and creativity;
- 89 percent see the sale of counterfeit and pirated goods as negatively affecting American jobs and 90 percent believe that it is bad for the U.S. economy;
- 91 percent support the U.S. government's role in stopping online corporate espionage, such as the online theft of trade secrets; and
- 91 percent support strong enforcement of laws to protect against the sale of counterfeit and pirated goods.

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In dealing with counterfeit goods from coming into the U.S. market from overseas, the survey finds that 81 percent of U.S. citizens support international efforts to combat the counterfeiting and pirating of goods in global markets, 86 percent want the U.S. to work with the Chinese government to achieve stronger IP protections, 81 percent support efforts to include IP provisions in international trade agreements, and 85 percent agree that it is important to provide adequate funding for law enforcement efforts to stop counterfeit goods from reaching the U.S. market.

In terms of product safety, 86 percent of U.S. citizens believe that the sale of counterfeit medicine and cosmetics pose health risks to U.S. consumers, and 83 percent want stronger criminal penalties to combat the online sale of these and other counterfeit products. Asked about recent incidences where counterfeit military parts have entered into the U.S. military supply chain, 89 percent of those surveyed believe that IP theft could harm national security.

The Internet has become an important and convenient means for consumers to shop and save. However, websites that traffic counterfeit goods have flourished on the Internet, creating confusion between which sites are legitimate and which are not. In this regard, 84 percent of those surveyed said they would support a program to shutdown websites that are dedicated to trafficking counterfeit and pirated goods. As for efforts to curb these activities, 69 percent of surveyed U.S. citizens said they would support voluntary efforts by their Internet Service Provider (ISP) to limit access to websites that are actively engaged in trafficking counterfeit and pirated goods; and 76 percent of U.S. citizens said they would like to be notified by their ISP if they unknowingly download illegally copied content.

All in all, the survey results show that U.S. citizens generally understand the importance of IP protections, they see the costs and risks from counterfeit and pirated goods, and they want stronger protection and enforcement. Now it is up to policymakers to support solutions that are effective, and not burdensome, in protecting consumers and the economy from IP theft.

II. Intellectual Property, Counterfeiting and Piracy

A. Introduction

When one reflects on counterfeit and pirated goods, knockoff luxury handbags, fake watches, and free music and videos may come to mind. For some, the counterfeiting and pirating of goods may seem to be a victimless crime, where no one is harmed by the sale of imitation goods sold at much lower prices than brand name products. However, the world of counterfeiting and piracy stretches to nearly every product in the market and has often led to considerable harm to consumers, including death. The consequences are well-known, as the Department of Homeland Security states, “counterfeit and pirated goods pose a serious threat to America’s economic vitality, the health and safety of American consumers, and our critical infrastructure and national security.”² The fact is that piracy and counterfeiting is not a victimless crime; it costs U.S. businesses more than \$200 billion each year and accounts for the loss of more than 750,000 jobs.³

According to one study, about 45 percent of United States Gross Domestic Product (GDP) was protected by trade and service marks, copyrights, and patents.⁴ Such protection both encourages development of new products by rewarding innovators for their efforts and provides information and assurances of quality for consumers. Piracy and counterfeiting products deceive buyers and cause economic harm in the form of reduced employment and earnings for firms, inventors, and creators. Consumers are often victimized by purchasing pirated software that contains computer viruses or fake goods that pose health and safety risks. Firms and governments also expend substantial sums to protect against such counterfeiting and

² “Intellectual Property Rights,” Department of Homeland Security, prepared by U.S. Customs and Border Protection, Office of International Trade, Fiscal Year 2012 Seizure Statistics, p. 2.

³ “Intellectual Property Spotlight,” Office of the United States Intellectual Property Enforcement, Executive Office of the President, March/April 2012, available online at http://www.whitehouse.gov/sites/default/files/omb/IPEC/spotlight/ipec_spotlight_mar_apr_spotlight_2012.pdf.

⁴ Candace S. Friel, “The High Cost of Global IP Theft: An Analysis of Current Trends, The TRIPs Agreement, and Future Approaches to Combat the Problem,” *Wake Forest IP Law Journal*, vol. 2, no. 2, 2006-2007, p. 214.

piracy, which ultimately is paid for by consumers in the form of higher prices and taxes. In many instances, counterfeiting and piracy have been connected to organized crime.⁵

This is not just a U.S. problem; it is a worldwide problem. The Organization for Economic Co-operation and Development estimates that \$250 billion of counterfeit goods were traded internationally in 2007.⁶ However, when countries include their own domestic counterfeiting, this figure increases to around \$650 billion and has been predicted to reach \$1.7 trillion by 2015.⁷ The World Customs Organization estimates that 5 to 7 percent of world trade involves counterfeit goods.⁸

This study will review the evidence from various studies and provide new survey results on adult U.S. citizens' opinions and attitudes toward counterfeiting and pirated goods.

B. Counterfeit Medicine

Counterfeit products typically involve manufactured goods of inferior quality sold under a brand name without the permission of the brand owner. When one thinks of counterfeit items it can conjure up images of designer bags or other fashionable items. However, almost every product, including food, auto parts, cigarettes, clothing and toys, have been counterfeited. Medicines have often been counterfeited, sometimes with dire consequences to patients.

For Americans, counterfeit medicines are a waste of income, and they often endanger the public's health and safety. One case that illustrates this problem is that of a liver transplant

⁵ For information, visit the United Nations Office on Drugs and Crime at www.unodc.org/toc/en/crimes/organized-crime.html, accessed June 5, 2013.

⁶ "Criminals make \$250 billion per year in counterfeit goods that pose health and safety risks to unsuspecting public," United Nations Office on Drugs and Crime, July 26, 2012, see <http://www.unodc.org/unodc/en/frontpage/2012/July/criminals-rake-in-250-billion-per-year-in-counterfeit-goods-that-pose-health-security-risks-to-unsuspecting-public.html>, <http://www.unodc.org/unodc/en/frontpage/2012/July/criminals-rake-in-250-billion-per-year-in-counterfeit-goods-that-pose-health-security-risks-to-unsuspecting-public>, accessed April 12, 2013.

⁷ Steve Hargreaves, "Counterfeit Goods Becoming More Dangerous," *CNN Money*, Sept. 27, 2012, see <http://money.cnn.com/2012/09/27/news/economy/counterfeit-goods/index.html>, accessed May 1, 2013.

⁸ Friel, p. 215.

patient in New York who was being treated for anemia with injections. After eight weeks of the patient not responding to treatment, doctors discovered that the medicine used was counterfeit.⁹

Counterfeit medication is a problem in the U.S. For example, over 11.5 million counterfeit Pfizer products were seized in 2004, resulting in the arrest of 364 people.¹⁰ A particularly serious case involved counterfeit versions of Avastin, a cancer fighting medication. Avastin's producer Roche notified doctors in February 2012 of a counterfeit-version of Avastin that contained salt and starch but no active ingredient.¹¹ The implications for patients are clear: counterfeits can kill.

Counterfeit versions of GSK's over-the-counter weight loss medication *Alli* have been distributed in the U.S. The medication contained Sibutramine, a controlled substance instead of Orlistat. The FDA reported that the counterfeit version could be dangerous for certain patient populations who unknowingly take it, and could potentially produce harmful interactions with other medications that patients may be taking.¹²

Another example of the dangers of counterfeit medications in the United States is the 2008 case of counterfeit Heparin, a blood thinner. In this case, the active ingredient was replaced with a cheaper substance that caused patients to have adverse reactions and resulted in a nationwide recall.¹³ The medication, whose counterfeit active ingredient came from China, the source of much counterfeiting, was suspected to be the cause of as many as 81 deaths. The U.S. firm that sold the medicine was subject to 740 lawsuits, and eventually it sold the division that produced the medicine.

⁹ Friel, p. 210.

¹⁰ Friel, p. 219.

¹¹ Eric Palmer, "Feds Nail Key Player in Counterfeit Avastin Probe," *Fierce Pharma*, April 24, 2013, see <http://www.fiercepharma.com/node/97001/print>, accessed April 26, 2013.

¹² "FDA Warns Consumers about Counterfeit Alli," FDA News Release, U.S. Federal Food and Drug Administration, January 18, 2010, at <http://www.fda.gov/NewsEvents/Newsroom/PressAnnouncements/ucm197857>.

¹³ Paul Toscano, "The dangerous world of counterfeit prescription drugs," see <http://www.usatoday.com/money/industries/health/drugs/story/2011-10-09/cnbc-drugs/506>, accessed April 30, 2013.

Preventing counterfeit medicines from entering the U.S. is especially difficult, in part, because most of the ingredients are imported.¹⁴ Since many of these medicines are expensive, buyers are attracted by lower prices. The rise of Internet pharmacies makes regulation more difficult. For example, many so-called “Canadian Internet pharmacies” are not Canadian at all, and are actually based in such places as Belize, Russia and Vietnam, to name a few. Detecting these counterfeits is often difficult, since many of these goods pass through a long and complicated distribution network, thereby creating opportunities for counterfeits to enter the supply chain.

Counterfeit medications are also a worldwide problem. The World Health Organization estimates that as much as 30 percent of the medicines sold in parts of Asia, Africa and Latin America are counterfeit.¹⁵ In 2011, 64 percent of anti-malarial drugs in Nigeria were found to be fakes.¹⁶

The fact is that selling of counterfeit medicines can be more profitable than selling illicit narcotics on the street. For example, one source reported that selling fake Viagra “can be as much as 2,000 times more profitable” than cocaine.¹⁷ Also, the criminal penalties can be far less for the sale of counterfeit medications than illegal narcotics, thus making it more profitable and less risky for criminals.

Given the estimated \$650 billion in lost sales annually to counterfeiters both internationally and domestically, significant private and public enforcement efforts are necessary. For example, pharmaceutical and drug manufacturing companies employ a substantial number of private security personnel composed of former FBI, narcotics and

¹⁴ One estimate is 80 percent. See Gardiner Harris, “F.D.A. Confronts Challenge of Monitoring Imports” *New York Times*, June 20, 2011.

¹⁵ “Counterfeit Goods: A Bargain or a Costly Mistake?” United Nations Office of Drugs and Crime, 2012, available at <http://www.unodc.org/toc/en/crimes/counterfeit-goods.html>.

¹⁶ “Bad Medicine, *The Economist*, October 13, 2012, p. 74.

¹⁷ John Bingham “Drug Dealers: Switching from Cocaine to Viagra,” *Telegraph*, March 2, 2009, see <http://www.telegraph.co.uk/news/uknews/law-and-order/4925836/Drug-dealers-switching-from-cocaine-to-fake-Viagra.html>, accessed May 3, 2013.

homeland security officers,¹⁸ as do other manufacturers, to combat counterfeiting and pirating.¹⁹ In terms of government spending, the additional cost of police officers, public law enforcement personnel, attorneys, judges and associated incarceration costs all contribute to higher costs for enforcement. While private enforcement costs are recovered by higher prices on consumer goods, government enforcement costs are borne by taxpayers.

C. U.S. Military Parts

Counterfeit parts have even been found in the military procurement supply chain. A U.S. Department of Commerce study found counterfeit military electronic systems were twice as prevalent in 2008 as they were in 2005.²⁰ A more recent U.S. Senate committee report found 1,800 cases of counterfeit military parts entered the military supply chain over a two-year period, with 70% of these parts coming from China.²¹ A government report found almost 10,000 cases where counterfeit goods ended up in the defense supply chain.²²

Military service is inherently risky, but counterfeit military parts add unnecessarily to this risk. Counterfeit parts have been found in many military systems and aircraft including a Lockheed Martin's C-130 J transport plane and a Boeing P-8A Poseidon aircraft designed for sea patrol. In 2011, one case of counterfeiting resulted in \$4 million in costs for the Missile Defense Agency.²³ Even NASA has inadvertently purchased counterfeit parts.²⁴ The threat to national security is clear: pirated and counterfeited goods pose substantial risk to military personnel and

¹⁸ CBS News 60 Minutes "The Difficulty Fight against Counterfeit Drugs", March 10, 2011, see http://www.cbsnews.com/8301-18560_162-20040693.htm, accessed May 6, 2013.

¹⁹ Friel, p. 222.

²⁰ "The Spread of Counterfeiting: Knock-offs Catch On," *The Economist*, May 4, 2010, see <http://www.economist.com/node/15610089>, accessed on May 6, 2013.

²¹ Inquiry into Counterfeit Electronic Parts in the Department of Defense Supply Chain, Committee on Armed Services United States Senate, Report 112-167, May 21, 2012, see <http://www.armed-services.senate.gov/Publications/Counterfeit%20Electronic%20Parts.pdf>.

²² Merrill Goozner, "U.S. Military Equipment Built with Counterfeit Parts," *The Fiscal Times*, May 22, 2012, see <http://www.thefiscaltimes.com/Articles/2012/05/22/US-Military-Equipment-Built-with-Counterfeit-Parts.aspx#page1>, accessed June 5, 2013.

²³ Katie Drummond, "Military's New Plan to Weed out Counterfeits: Plant DNA," *Wired*, Jan. 19, 2013, see <http://www.wired.com/dangerroom/2012/01/dna-counterfeits>, accessed May 6, 2013.

²⁴ Ned Potter, "NASA Satellites Get Counterfeit Parts, Taxpayers Pay," *ABC News*, March 7, 2009, at <http://abcnews.go.com/Technology/story?id=7026399&page=1>, accessed on June 5, 2013.

can damage high technology weapons systems that protect Americans at home and American interests abroad.

D. Other Commonly Counterfeited and Pirated Goods

Nearly all goods are at risk of counterfeiting and piracy. In 2010, for example, Philip Morris sued eight retailers for selling counterfeit Marlboro cigarettes.²⁵ Along with many counterfeit automobile parts are brake pads, tires and batteries, which can pose risks to consumer safety. For example, counterfeit batteries with a well-known brand name were found to contain excessive amounts of mercury, which could cause an explosion if exposed to sunlight.

There are additional safety concerns with counterfeit goods. In 2013, several individuals and New York based companies were accused of selling counterfeit and dangerous toys over an 8-year period. Federal officials reported that 17 of 33 seizures of counterfeit toys found excessive lead and phthalate content, and they contained small parts that could lead to choking.²⁶ High levels of carcinogens have been found in fake jewelry, high levels of mercury were found in cosmetics, and lice were found in cosmetic brushes.²⁷ In general, the quality of counterfeit goods is substandard and often dangerous to consumers. Thus, consumers are unknowingly paying for substantially risky and inferior goods.

Pirated software, music recordings, movies and video games are commonly found in foreign countries. Some of pirated products pose risks to consumers and businesses, including the introduction of viruses and malicious codes onto personal computers, but they also cause economic harm to firms with copyrights for these products. Worldwide, the software industry losses an estimated \$63 billion from IP theft and 57% of computer users admit to using pirated

²⁵ "The Spread of Counterfeiting: Knock-offs Catch On," *The Economist*, May 4, 2010, see <http://www.economist.com/node/15610089>, accessed on May 6, 2013.

²⁶ Kristina Sgueglica, "5 Accused of Importing Counterfeit, Hazardous Toys," *CNN*, February 7, 2013, see <http://www.cnn.com/2013/02/06/us/hazardous-toys>, accessed May 6, 2013.

²⁷ "Fake Goods Save Money But at What Costs?" *BBC News*, December 18, 2011.

software.²⁸ The global software piracy rate is estimated to be 42%, with Asia, Latin America and African/Middle East estimated to be 63%, 61% and 58%, respectively.²⁹

In terms of copyright violations, one 2007 study estimated that piracy of sound recordings cost the U.S. economy \$12.5 billion in GDP and 71,060 jobs.³⁰ A 2006 study estimated U.S. losses from motion picture piracy to be \$20.5 billion in GDP and 141,300 jobs.³¹ With today's sizable digital tech economy, these economic losses are growing and they work to undermine the basic incentives for creation and innovation. Without copyright protections what company would invest the \$100 million or more to produce a typical Hollywood movie?

E. Impact on Value of Brand Names

In addition to the harm from buying inferior counterfeit products and possible health and safety concerns, piracy and counterfeiting weakens the public's reliance on brand names, which creates yet another cost to society. Brand names provide consumers with assurances of value and quality, as well as reducing product search costs.³² Consumers rely upon brand names when they buy goods, such as electronics, because they can have difficulty evaluating features, functions and technical components. If consumers unknowingly purchase a counterfeit product, they may begin to lose confidence in that manufacturer's brand name, causing long run damage to the brand, as well as causing consumers to expend more time and effort in determining product value and quality.

²⁸ "Shadow Market," 2011 BSA Global Software Piracy Study, Business Software Alliance, Ninth Edition, May 2012, at <http://globalstudy.bsa.org/2011/>.

²⁹ Ibid.

³⁰ Stephen E. Siwek, "The True Cost of Sound Recording Piracy to the U.S. Economy," Policy Report 199, Institute for Policy Innovation, August 2007.

³¹ Stephen E. Siwek, "The True Cost of Motion Picture Piracy to the U.S. Economy," Policy Report 186, Institute for Policy Innovation, September 2006.

³² See Don E. Waldman and Elizabeth J. Jensen, *Industrial Organization: Theory and Practice*, 3rd ed., Pearson-Addison Wesley, Boston, 2007, p. 436; Rodney Johnson, "The Economics of Counterfeiting," McKinney Consulting, see <http://mckinneyconsulting.com/index.php/leaders-library/157-the-economics-of-counterfeiting>, accessed May 7, 2013; F.M. Scherer and David Ross, *Industrial Market Structure and Economic Performance*, 3rd ed. Houghton, Boston, 1990, p. 578.

F. Economic Benefits of IP

Innovation is important to economic growth and U.S. competitiveness in the global marketplace, and IP protections provide the ability for society to prosper from innovation. As President Obama has stated, “if we are to win the future and to be successful in an increasingly competitive international market, the United States must innovate.”³³ Innovations create jobs and provide products that enrich consumers’ lives. IP-intensive industries accounted for 27.7 percent of all U.S. employment in 2010.³⁴ Such industries paid a 42 percent wage premium in 2010 compared to other industries, and they accounted for 60.7 percent of U.S. merchandise exports in that year. As the U.S. Department of Commerce puts it, “innovation protected by IP rights is key to creating new jobs and growing exports.”³⁵ Alternatively, IP theft reduces incentives to create and innovate, and that, in turn, reduces economic output and employment.

In summary, this section has reviewed the evidence on the risks and costs of counterfeit and pirated goods posed to consumers and the economy as a whole. The next section will explore whether consumers understand these risks and whether they support protection and enforcement of IP rights. This will be accomplished by providing the results of a new survey of consumer opinions on IP issues.

³³ U.S. Department of Commerce, “IP and the U.S. Economy: Industries in Focus,” March 2012.

³⁴ Economics and Statistics Administration “IP, and the U.S. Economy: Industries in Focus,” April 10, 2012, see <http://www.esa.doc.gov/Reports/intellectual-property-and-us-economy-industries-focus>, accessed April 12, 2013.

³⁵ Ibid.

III. Survey Methodology

The American Consumer Institute's survey results are based on a scientifically drawn sample using well-accepted and rigorous statistical methods, and the survey results accurately reflect national opinions of adult American citizens. Those responsible for writing, supervising and reporting on the survey results have substantial knowledge of survey research methods, including previous publication in academic journals and government reports.

A third-party national survey research group, American Directions Group, independently conducted a telephone survey using professional interviewers from April 14, 2013 through April 21, 2013.³⁶ The survey completed a total of 1,000 telephone surveys of U.S. citizens nationwide aged 18 years and above, including 800 wireline and 200 wireless telephone interviews. All interviews were conducted using a computer assisted telephone interviewing system. The final sample was drawn from a survey research database in proportion to the U.S. population using a random-digit-dial calling method.

The sample was fully replicated and stratified. Only one interview was conducted per household. All sample numbers selected were subject to four attempts to complete an interview. Completed interviews were weighted by age, sex and geographic region to ensure reliable and accurate representation of the total population.

The survey had a response rate of 41 percent. Cases of unknown eligibility, such as answering machines, busy signals, no answer, and known ineligibility, such as disconnected numbers, businesses and fax numbers, were excluded from this calculation as recommended by the American Association for Public Opinion Research.

The sample size is sufficiently large to permit statements with reasonable statistical accuracy, and provides a confidence interval of plus or minus 3 percentage points, in the worst

³⁶ For more information on the American Directions Group, visit <http://www.americandirections.com/>.

case.³⁷ The results were cross-tabulated for various demographic characteristics, specifically sex, age and party-affiliation and are available in the appendix at the end of this study.

Since sample size is an important determinant of the statistical validity and reliability of the results, caution should be exercised for those subgroups containing small samples.

³⁷ In instances where the results are somewhat one-sided, the confidence interval can be substantially narrower. For example, if 90 percent of respondents agree with a statement, given a sample size of 1,000 and a universe of 120 million households, the margin of error can be below 2 percentage points at the 95 percent level.

IV. Survey Results

This section summarizes each question in the survey. The complete questionnaire and results are available in the appendices of this study.

Question #1: Are you a United States citizen, 18 years or older?

The initial survey question screened calls to determine whether the surveyed consumer was 18 years of age or older and an American citizen. If either condition was not met, the call was terminated; if met, the survey responses were collected. In total, 1,000 completed responses were recorded and are summarized in the other remaining questions, as noted in this section.

Question #2: Artists, authors, manufacturers and inventors use copyrights, trademarks, patents, and trade secrets to protect their products from copycats. Do you agree or disagree that these protections are a good way to encourage innovation and creativity?

This introductory question probed the importance of IP rights in protecting against imitations as a means to encourage the production and innovation of original products and works. Of the 1,000 responses, 86 percent strongly agreed (N=587) or somewhat disagreed (N=270) with the statement, whereas 3 percent strongly disagreed (N=13) or somewhat disagreed (N=21) with the statement. The remaining 11 percent of the responses were either neutral or did not choose to answer the question.³⁸ The overall results – as well as results by age, gender, and party affiliation – were strongly in favor of IP Rights.

Question #3: Do you agree or disagree that the sale of counterfeit medicine and cosmetics can pose serious health risks to American consumers?

As mentioned in the previous section, counterfeit and pirated goods are being sold in the U.S. This question focuses on the sale of counterfeit medicines and cosmetics and asks

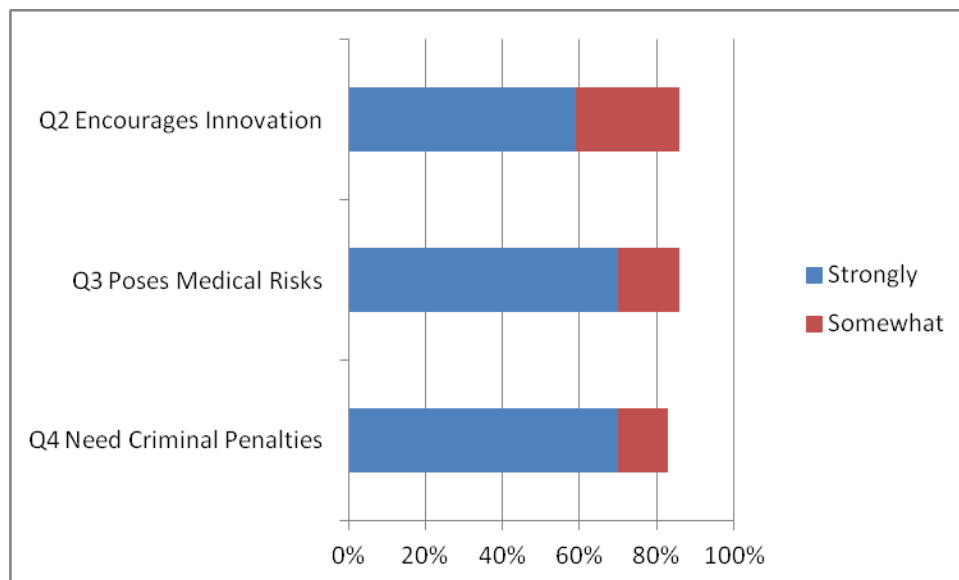
³⁸ All questions allowed the consumers an option to say that they did not know and, in some cases, consumers chose not answer a particular question. Some questions permitted a neutral response. For instance, in question #2, 4 percent of the responses were neutral (N=39), and 7 percent either did not answer the question or responded that did not know (N=69 for both). The results for neutral and unanswered responses are available in the appendix at the conclusion of this study. Due to rounding, some results may not sum to 100%.

consumers if they believe these sales pose health risks to the public. Similar to the results from the previous question, 86 percent of respondents agreed strongly (N=703) or somewhat (N=163) that these sales posed health risks, while only 9 percent strongly (N=29) or somewhat (N=44) disagreed with the statement. Among those most agreeing to the statement were females (89 percent).

Question #4: Would you support or oppose criminal penalties for anyone who knowingly sells counterfeit medicine to Americans online?

In light of strong agreement that counterfeit medicine and cosmetic sales pose risks to consumers, 83 percent of respondents strongly agree (N=701) or somewhat (N=133) supported criminal penalties. Only 10 percent of respondents strongly opposed (N=60) or somewhat (N=37) opposed. Agreement was widespread among party affiliation, age and gender. However, support was lowest among respondents aged 18 to 24, although 63 percent of this age group still supported criminal penalties. As **Figure A** (below) shows, more respondents “strongly support” the need for criminal penalties to stem the sale of counterfeit drugs.

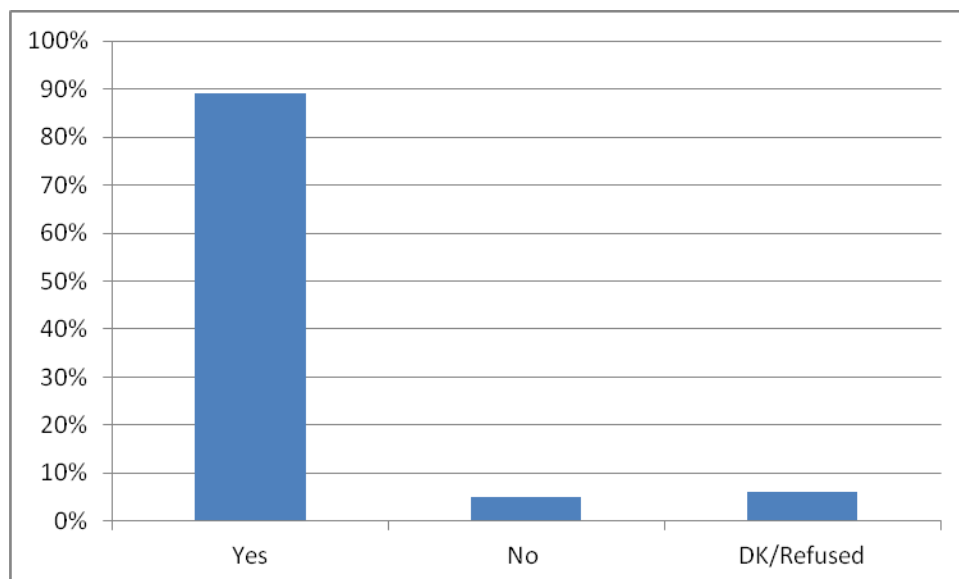
Figure A: Survey Results for Questions #2, #3 and #4:



Question #5: Recently, counterfeit parts were found in the U.S. military’s supply chain, including counterfeit missile and aircraft parts. Do you believe that counterfeit parts could harm national security?

This question yielded one of the more one-sided responses of the survey with 89 percent agreeing (N=892) that counterfeit military parts could harm national security. The results showed widespread agreement across all demographic groups, including party affiliation. Only 5 percent disagreed (N=45) with the statement, with the highest disagreement (10 percent) among those aged 18 to 24. **Figure B** summarizes the overwhelming belief by consumers that counterfeit parts could harm national security.³⁹

Figure B: Question #5 – Counterfeit Parts Posing National Security Risks



Question #6: Do you agree or disagree that the sale of counterfeit and pirated goods hurts American jobs?

The vast majority of consumers agreed that American jobs are negatively affected by the sale of counterfeit and private goods. Of the 1,000 respondents, 89 percent agreed (N=885) with the statement and 6 percent disagreed (N=57). The results were similar across all

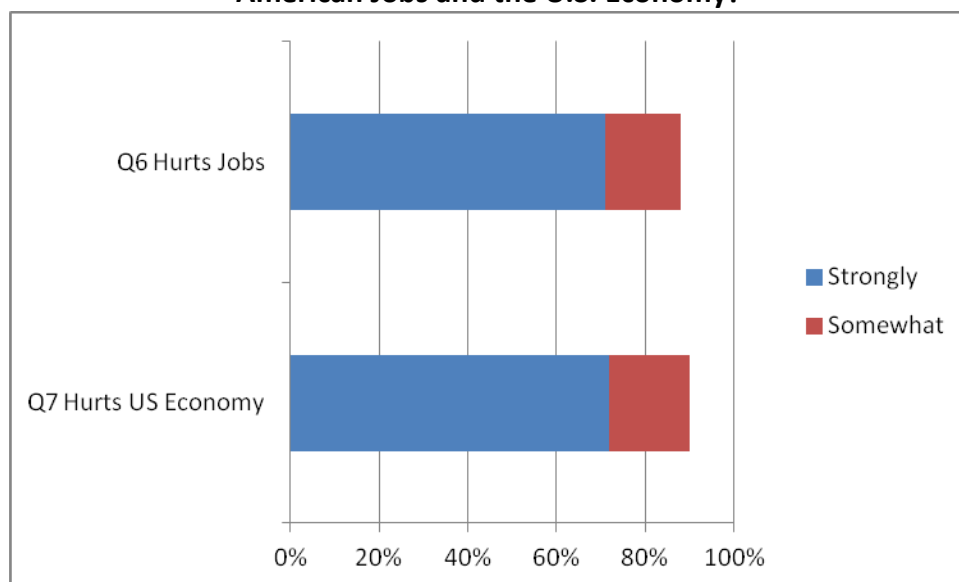
³⁹ A one-sided response will have a narrower confidence interval. In this case, the margin of error is approximately 1.9 percent at the 95 percent level.

of the demographic groups tested, including gender, political affiliation, and those consumers with Internet access. Younger respondents, those 18 to 24 years of age, were similarly inclined to agree but at a lesser rate. Approximately 3 percent were neutral (N=25) with the statement - that is, neither agreeing nor disagreeing with it.

Question #7: Do you agree or disagree that the selling of counterfeit and pirated goods hurts the U.S economy?

For this question, the results were slightly stronger than Question #6, with 90 percent of respondents agreeing (N=895) and 5 percent disagreeing (N=51) with the statement. **Figure C** summarizes the results for Questions #6 and #7, showing those that strongly agree and somewhat agree with the statement.

Figure C: Question #7 Does Selling Counterfeit/Pirated Goods Hurt American Jobs and the U.S. Economy?

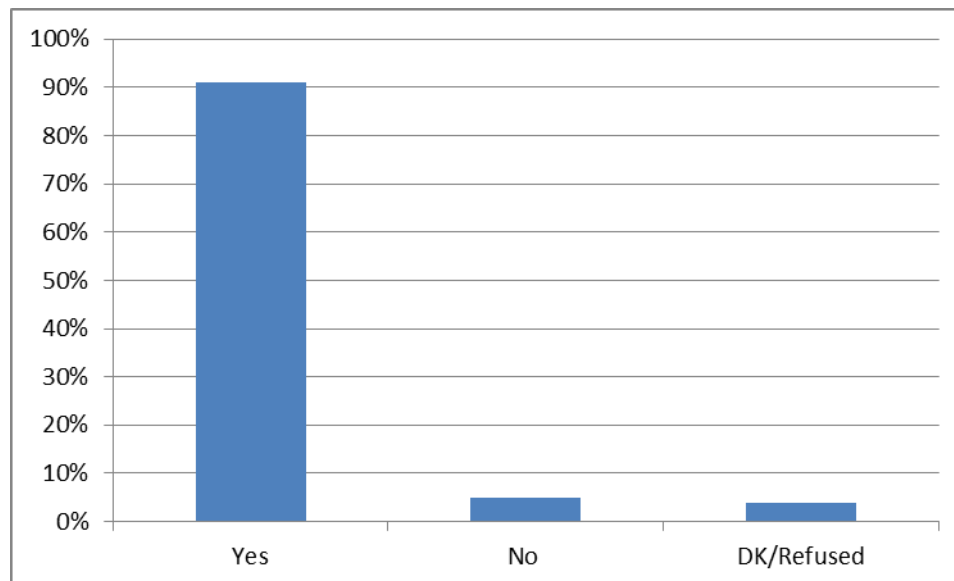


Question #8: Do you believe there should be laws and enforcement in place to protect American consumers and businesses from the sale of counterfeit and pirated goods?

The previous responses showed that consumers believed in IP rights as a means to stimulate innovation, had strong concerns with the sale of counterfeit medicines, cosmetics and military parts, and believed that these sales negatively affect American jobs and the U.S.

economy. This question poses whether laws and enforcement are needed to protect Americans from the sale of counterfeit and pirated goods. As before, the survey response was strong, with 91 percent of American Citizens saying *YES* to the question (n=908), while only 5 percent responding *NO* (N=50). This somewhat one-sided result is depicted in **Figure D**.

Figure D: Question #8 – Is there Need for Laws and Enforcement?



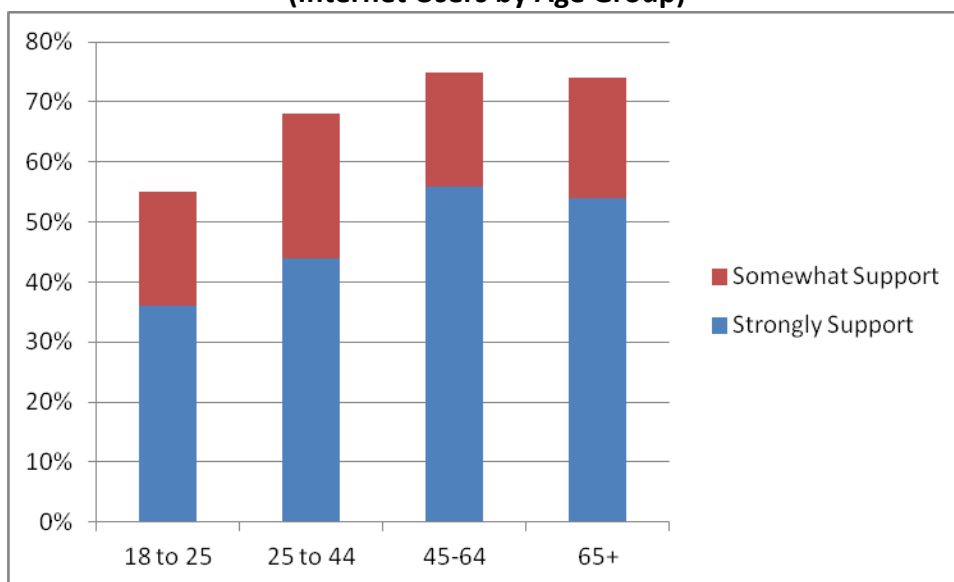
Question #9: Are you an Internet user?

Since Questions #10 and #11 specifically address consumer attitudes concerning potential actions of ISPs, Question #9 screens for respondents who are Internet users. In the survey, 74 percent (or 742) respondents identified themselves as Internet users, 25 percent did not, and 1 percent did not answer the question or did not know. As a result, Question #10 and #11 was posed only to these Internet users, while those identifying themselves as not an Internet user and those not answering the question were omitted from the next two questions.

Question #10: Some Internet Service Providers take voluntary actions to protect consumers by limiting access to websites that traffic counterfeit and pirated goods. Do you support or oppose these voluntary actions?

The purpose of this question is to see if Internet users would prefer or accept an ISP proactively restricting access to known websites that sell counterfeit or pirated goods. Presumably, consumers that oppose these voluntary restrictions would prefer to deal with the problem themselves. While the results were not as strong compared to some of the previous responses, the majority of consumers preferred to have their ISP intervene on their behalf. Of the 742 self-identified Internet users (from Question #9), 69 percent of respondents supported voluntary actions by their ISP to restrict these websites, including nearly half (48 percent) that strongly support action (N=353) and 22 percent that somewhat support action (N=158). Among those opposing ISP voluntary action were 12 percent that strongly opposed (N=89) and 10 percent that somewhat opposed (N=72). Interestingly, while the majority of younger Internet users supported ISP intervention, the margins were smaller than their older cohorts as depicted in **Figure E**.

**Figure E: Question #10 -- Who Supports ISP Voluntary Actions?
(Internet Users by Age Group)**

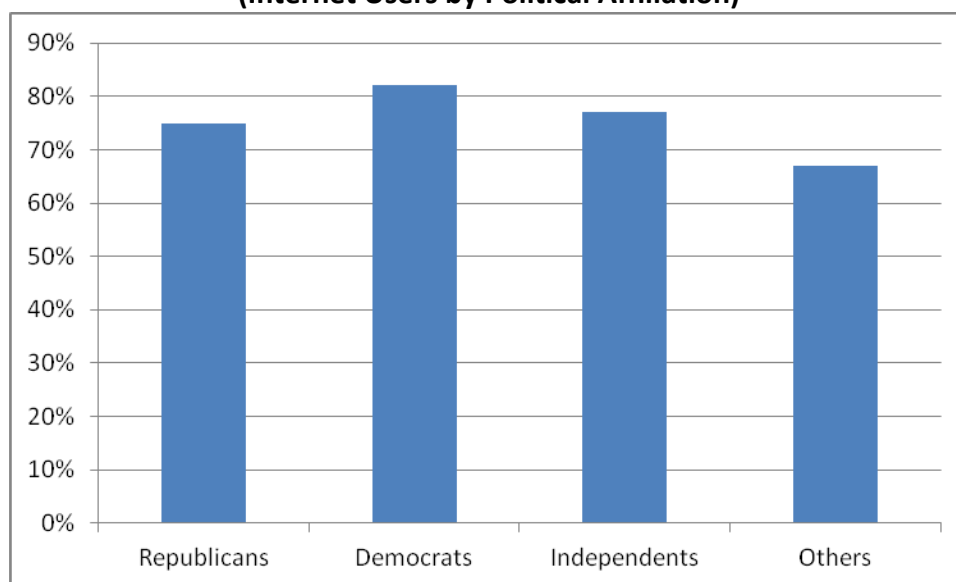


Question #11: Would you like to be informed by your Internet Service Provider if, unknowingly, you were downloading illegally copied content?

The second question deals with whether Internet users would prefer their ISPs to alert them in the event they mistakenly download illegal content. Of the 742 self-identified Internet

users, 76 percent responded *YES* (N=562), while 20 percent responded *NO* (N=148). The results appeared to vary somewhat based on age. In addition, Internet users identifying themselves to be Democrats preferred to be notified by their ISP, as depicted in **Figure F**.

**Figure F: Question #11: Would You Prefer to Be Notified of Illegal Downloads?
(Internet Users by Political Affiliation)**

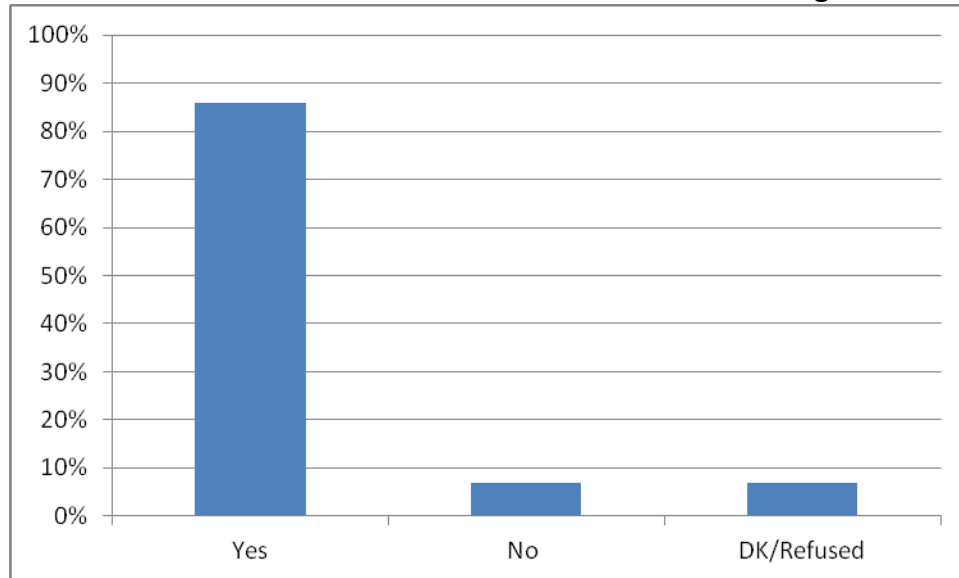


Question #12: Should the U.S. government work with Chinese authorities to achieve stronger protections against counterfeit and pirated goods?

The next several questions deal with international issues, particularly the importation of counterfeit goods. The remaining survey questions were posed to all 1,000 respondents. Specifically, when asked whether the U.S. government should work with China to strengthen IP laws, 86 percent of respondents agreed (N=857), and 7 percent disagreed (N=72). Internet users were somewhat more willing to work with the Chinese (88 percent versus 81 percent for non-Internet users); Republicans were somewhat less willing to work with the Chinese (84 percent versus 91 percent for Democrats); and middle-aged consumers were most supportive of the U.S. government willing to work with the Chinese to achieve stronger protections against

counterfeit and pirated goods.⁴⁰ Overall, despite these small differences, the overwhelming majority of adult American citizens support working with the Chinese to reach a solution, as depicted in **Figure G**.

Figure G: Question #12 – Should We Work with the Chinese to Strengthen Protections?



Question #13: Do you support or oppose efforts to include provisions in international trade agreements to combat the counterfeiting and pirating of goods in global markets?

In terms of Question #13, respondents were asked if they supported international actions to reduce trade of counterfeit and pirated goods. Overall, 81 percent of respondents supported such action (N=811), with only 7 percent opposing (N=71). The results were fairly uniform across demographic characteristics with somewhat less agreement among the youngest age group – those 18 to 24 years of age.

Question #14: Do you agree or disagree that it is important to “fund” law enforcement to stop counterfeit goods from reaching the U.S. market?

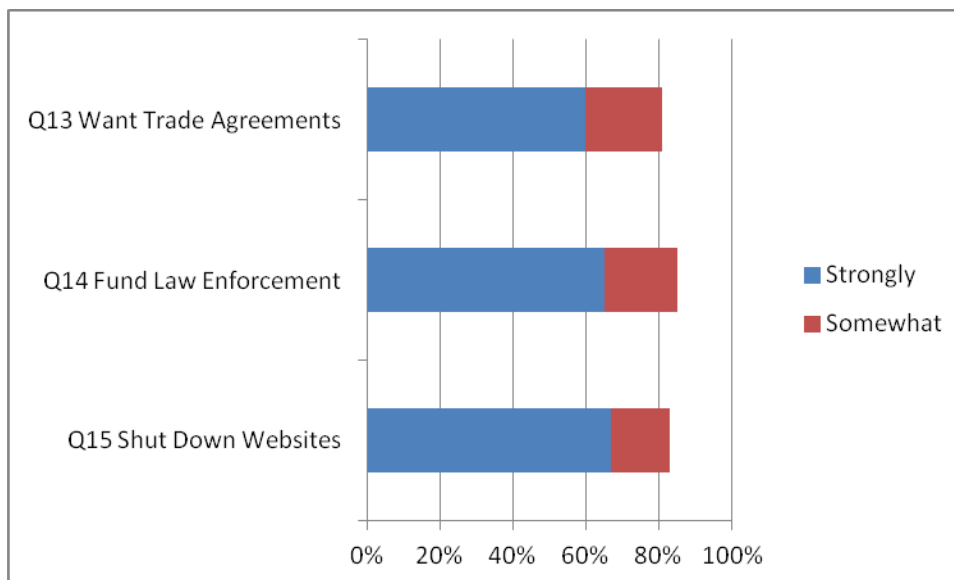
⁴⁰ Consumers aged 18 to 24 years, 25 to 44 years, 45 to 64 years and 65 years and older were willing to work with the Chinese in 76 percent, 85 percent, 90 percent and 88 percent of the time, respectively. Details are available in the Appendix portion of this study.

Despite ongoing problems with the federal budget deficit, adult American citizens appear very supportive of funding law enforcement efforts to curtail counterfeit and pirated goods that come into the U.S. Specifically, 85 percent of respondents supported funding (N=851), while 7 percent opposed (N=73) it. Support for funding was high among both Democrats and Republicans.

Question #15: Would you support or oppose a program to shut down websites dedicated to tricking consumers into buying counterfeit and pirated products?

Adult U.S. citizens were generally supportive of this statement – with 84 percent of respondents supporting such an action (N=839), including 67 percent strongly supporting (N=674) and 16 percent (N=165) somewhat supporting. Only 9 percent (N=94) opposed such an action. As before, younger adults were somewhat less supportive, while Internet users were somewhat more supportive. **Figure H** summarizes the result of Question #15 alongside Questions #13 and #14, which deal with various international aspects of counterfeit and pirated goods.

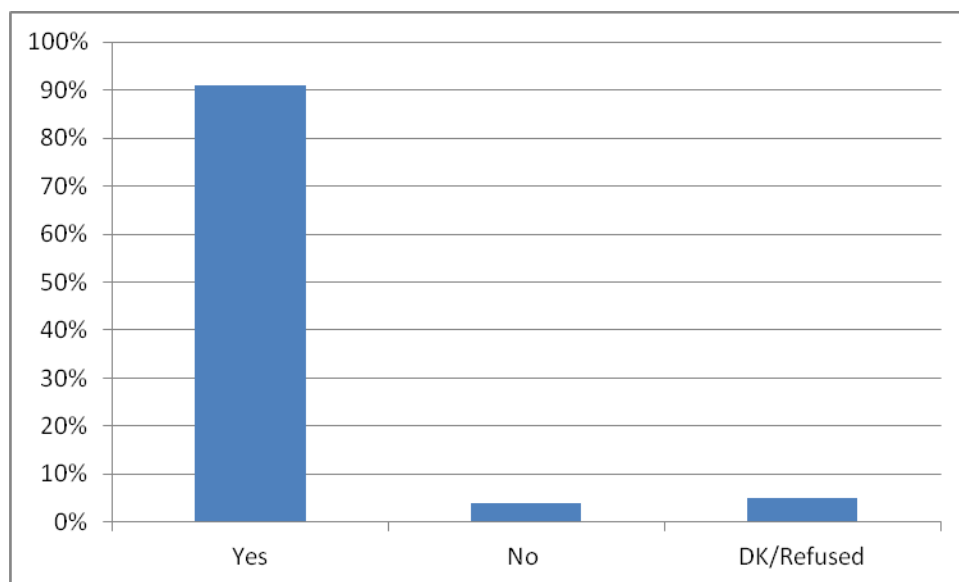
Figure H: Summary Results for Questions #13, #14 and #15



Question #16: Some foreign governments are engaging in online theft of American trade secrets, formulas and processes in order to gain a competitive advantage. Do you support the U.S. government's role in stopping this theft?

This was the final question asked before the demographic questions on the survey. The results were among the strongest, indicating opposition to corporate theft and espionage. Specifically, 91 percent of respondents (N=909) support U.S. action to curtail online corporate theft, including the stealing of trade secrets for competitive advantage. Only 4 percent (N=38) of respondents did not support such action. Most supportive of an active U.S. role were Democrats (95 percent). While lower than average, 84 percent of respondents aged 18 to 24 years old were very supportive as well. This overwhelming support is depicted in **Figure I**.

Figure I: Support Action to Stop Online Corporate Theft



In summary, the results show strong support for the concept of IP rights, protection, enforcement and funding. Those surveyed believe that counterfeiting and piracy negatively affects American jobs and hurts the U.S. economy. Surveyed Internet users do not mind having their ISP proactively limiting their access to websites that actively sell counterfeit goods. They also want the U.S. government to work with foreign governments to curtail these problems. Finally, they support actions to reduce online theft of corporate information and trade secrets.

V. Concluding Thoughts on Policy Directions

This study provides empirical evidence and yields two major conclusions: 1) a review of various reports and studies quantifies and shows that counterfeit and pirated goods harm U.S. businesses, lead to a substantial loss of economic output and jobs, and can put consumers at great risk; and 2) survey results show that U.S. citizens generally understand the importance of IP protections, perceive the costs and risks from counterfeit and pirated goods, and want stronger protections and enforcement.

While these results are clear and consistent, public policy solutions remain uncertain. A previous attempt to provide for stronger protections and enforcement was considered too onerous by some, and passage of a legislative solution failed.⁴¹ Given the clear evidence of the harm caused by counterfeit and pirated goods – including harm to the economy, consumers, U.S. businesses and national security – consumers want this problem addressed and policymakers need to listen to these concerns. The key is for Congress to find the right balance that can protect consumers and IP rights, while minimizing the imposition of onerous regulations on trade and commerce.

⁴¹ Jared Newman, “SOPA and PIPA explained,” *PCWorld*, January 17, 2012, See http://www.pcworld.com/article/248298/sopa_and_pipa_just_the_facts.html, accessed on May 8, 2013.

Appendix: Survey Questionnaire and Summary Results

Hello. My name is (NAME) with a national public opinion research firm. We are conducting a short consumer survey. This is not a sales call. This survey is completely confidential and your name will not be used in reporting the results of this national survey.

1. Are you a United States citizen, 18 years or older?

- A. If YES, go to Q2 to begin the survey **100 percent**
 - B. If NO, (re-screen for another HH member. If none, terminate call)
-

2. Artists, authors, manufacturers and inventors use copyrights, trademarks, patents, and trade secrets to protect their products from copycats. Do you agree or disagree that these protections are a good way to encourage innovation and creativity? (IF AGREE/DISAGREE) And is that strongly or somewhat?

- A. Strongly agree **59 percent**
- B. Somewhat agree **27 percent**
- C. (Neutral, neither agree nor disagree) **4 percent**
- D. Somewhat disagree **2 percent**
- E. strongly disagree **1 percent**
- F. (DO NOT READ) Don't Know/Other **7 percent**

3. Every year, counterfeit and pirated goods flood the US market from overseas, including knock-off designer products, look-alike truck tires and counterfeit medicines, as well as copied software, videos and music. Do you agree or disagree that the sale of counterfeit medicine and cosmetics can pose serious health risks to American consumers? (IF AGREE/DISAGREE) And is that strongly or somewhat?

- A. Strongly agree **70 percent**
- B. Somewhat agree **16 percent**
- C. (Neutral, neither agree nor disagree) **3 percent**
- D. Somewhat disagree **4 percent**
- E. strongly disagree **5 percent**
- F. (DO NOT READ) Don't Know/Other **3 percent**

4. Would you support or oppose criminal penalties for anyone who knowingly sells counterfeit medicine to Americans online? (IF SUPPORT/OPPOSE) And is that strongly or somewhat?

- A. Strongly support **70 percent**
- B. Somewhat support **13 percent**
- C. (Neutral, neither support or oppose) **4 percent**
- D. Somewhat oppose **4 percent**
- E. Strongly oppose **6 percent**
- F. (DO NOT READ) Don't Know/Other **3 percent**

5. Recently, counterfeit parts were found in the US military's supply chain, including counterfeit missile and aircraft parts. Do you believe that counterfeit parts could harm national security?

- A. Yes **89 percent**
- B. No **5 percent**
- C. (DO NOT READ) Don't know/Refused **6 percent**

6. Do you agree or disagree that the sale of counterfeit and pirated goods hurts American jobs? (IF AGREE/DISAGREE) And is that strongly or somewhat?

- A. Strongly agree **71 percent**
- B. Somewhat agree **17 percent**
- C. (Neutral, neither agree nor disagree) **3 percent**
- D. Somewhat disagree **4 percent**
- E. Strongly disagree **2 percent**
- F. (DO NOT READ) Don't Know/Other **3 percent**

7. Do you agree or disagree that the selling of counterfeit and pirated goods hurts the US economy? (IF AGREE/DISAGREE) And is that strongly or somewhat?

- A. Strongly agree **72 percent**
- B. Somewhat agree **18 percent**
- C. (Neutral, neither agree nor disagree) **3 percent**
- D. Somewhat disagree **3 percent**
- E. Strongly disagree **2 percent**
- F. (DO NOT READ) Don't Know/Other **2 percent**

8. Do you believe there should be laws and enforcement in place to protect American consumers and businesses from the sale of counterfeit and pirated goods?

- A. Yes **91 percent**
- B. No **5 percent**
- C. (DO NOT READ) Don't know/Refused **4 percent**

9. Are you an Internet user?

- A. Yes **74 percent**
- B. No (Skip to 12) **25 percent**
- C. (DO NOT READ) Don't know/Refused (Skip to Q12) **1 percent**

10. Some Internet Service Providers take voluntary actions to protect consumers by limiting access to websites that traffic counterfeit and pirated goods. Do you support or oppose these voluntary actions? (IF SUPPORT/OPPOSE) And is that strongly or somewhat?

- A. Strongly support **48 percent**
- B. Somewhat support **21 percent**
- C. (Neutral, neither support or oppose) **5 percent**
- D. Somewhat oppose **10 percent**
- E. Strongly oppose **12 percent**
- F. (DO NOT READ) Don't Know/Other **4 percent**

11. Would you like to be informed by your Internet Service Provider if, unknowingly, you were downloading illegally copied content?

- A. Yes **76 percent**
- B. No **20 percent**
- C. (DO NOT READ) Don't know/Refused **4 percent**

12. According to US Customs and Border Protection, about 84 percent of the counterfeit goods seized in 2012 originated from China and Hong Kong. Should the US government work with Chinese authorities to achieve stronger protections against counterfeit and pirated goods?

- A. Yes **86 percent**
- B. No **7 percent**
- C. (DO NOT READ) Don't know/Refused **7 percent**

13. Do you support or oppose efforts to include provisions in international trade agreements to combat the counterfeiting and pirating of goods in global markets?

- A. Strongly support **60 percent**
- B. Somewhat support **21 percent**
- C. (Neutral, neither support or oppose) **5 percent**
- D. Somewhat oppose **3 percent**
- E. Strongly oppose **4 percent**
- F. (DO NOT READ) Don't Know/Other **7 percent**

14. Do you agree or disagree that it is important to "fund" law enforcement to stop counterfeit goods from reaching the US market? (IF AGREE/DISAGREE) And is that strongly or somewhat?

- A. Strongly agree **65 percent**
- B. Somewhat agree **20 percent**
- C. (Neutral, neither agree nor disagree) **4 percent**
- D. Somewhat disagree **4 percent**
- E. Strongly disagree **3 percent**
- F. (DO NOT READ) Don't Know/Other **4 percent**

15. Would you support or oppose a program to shut down websites dedicated to tricking consumers into buying counterfeit and pirated products? (IF SUPPORT/OPPOSE) And is that strongly or somewhat?

- A. Strongly support **67 percent**
- B. Somewhat support **16 percent**
- C. (Neutral, neither support or oppose) **4 percent**
- D. Somewhat oppose **4 percent**
- E. Strongly oppose **6 percent**
- F. (DO NOT READ) Don't Know/Other **3 percent**

16. Some foreign governments are engaging in online theft of American trade secrets, formulas and processes in order to gain a competitive advantage. Do you support the US government's role in stopping this theft?

- A. Yes **91 percent**
- B. No **4 percent**
- C. (DO NOT READ) Don't know/Refused **5 percent**

17. Which of the following best describes your political beliefs? (READ LIST)

- 1. Republican **25 percent**
- 2. Democrat **28 percent**
- 3. Independent **28 percent**
- 4. Other Party/Organization **9 percent**
- C. (DO NOT READ) Don't know/Refused **10 percent**

18. What of the following categories includes your age?

- 1. Under 25 **13 percent**
- 2. 25 to 44 **33 percent**
- 3. 45 to 64 **33 percent**
- 4. 65 and over **17 percent**
- 5. (DO NOT READ) Don't know/Refused **4 percent**

Thank you for your time.

19. Gender

- 1. Male **49 percent**
- 2. Female **51 percent**

Note: detailed cross-tabulated survey results are available at www.theamericanconsumer.org.