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Wyden Statement at Finance Committee Hearing on Combating Counterfeit Goods
As Prepared for Delivery

This morning, the Finance Committee meets to discuss the challenge of protecting consumers from counterfeit goods. And, I am glad that we are having this discussion, which is overdue in my book. In addition, I hope that this Committee will soon hold hearings on the administration's many trade activities -- including the steel and aluminum investigations and potential tariffs, the NAFTA renegotiations, and the investigation of China under Section 301.

On counterfeit imports, any discussion of this issue has to begin by recognizing that over the last few decades, the internet has transformed virtually every facet of our economy. It is the shipping lane of the 21st century. And people now take it for granted, but it's a miracle of the modern world that a small business in Oregon is able to reach consumers almost anywhere, anytime. No longer does expanding your customer base mean investing in bricks and mortar.

Wildfang is a socially conscious Portland clothing company that was founded by women and run by women. They have two stores in Portland, but what's really driving sales, according to founder Emma McIlroy, is online sales. A full 70% of their business happens online, and that's where their growth is happening. This is a company that seized the opportunity to sell around the world via the internet, now has 25 employees.

But as with any economic transformation, the upside comes with new challenges. That includes the chance that when you buy something online, it could be a fake.

It's up to the federal government to make sure our approach to combating counterfeits isn't stuck in the 20th century. These days, when you talk about cracking down on counterfeit goods, you're no longer talking about stopping the guy selling fake purses out of his trunk. You're talking about illegitimate products passed off on even the most streetwise consumers, often because they're mixed right in with the genuine products people want. Many of those fakes pose serious dangers. Makeup and food and beverage containers made with dangerous chemicals. Electronics that pose a fire hazard. Toys that are unsafe for children.

The number of small packages coming into our country has surged, and Customs and Border Protection has a major role to play in identifying counterfeits and stopping them before they enter our marketplace. But unfortunately, CBP is too often playing catch up ball tracking these fake products down.

After conducting a recent study of this exact issue requested by Chairman Hatch, the Government Accountability Office recommended a set of policy updates to have CBP work more closely with the private sector. Those recommendations included expanding CBP's authority to notify online sales platforms when they've got products on their hands that might be fake.

You might hope that would set the wheels in motion to get those policies in place. But CBP responded to GAO late last year by claiming it would take until this upcoming September to determine if that additional authority was really necessary.

Over the last few years, this committee has put a lot of sweat equity into policies that strengthen the enforcement of our trade laws and protect American consumers and workers. Senator Hatch and I authored the Trade Facilitation and Trade Enforcement Act of 2015 that put in place important new tools for CBP to detect and prevent counterfeits, including by sharing information about counterfeit imports with rightsholders. So in preparation for this hearing, committee staff from both sides, sat down with CBP to dig into this issue.

My staff asked, "Does CBP need more authority to crack down on counterfeits?"

CBP said they didn't know.

When asked when they would know, CBP said they didn't know when they would know.

It's concerning to me that we were unable to get a straight answer on a matter like this from the agency at the heart of our efforts to protect American consumers from counterfeit goods. So I'm going to give CBP another chance to answer these questions today.

But let's also recognize that getting this right isn't going to be as simple as putting a few more policy tools in CBP's kit.

Year after year, administrations have fallen short in hiring enough officers - blue uniforms - to fulfill the critical need of protecting U.S. consumers and businesses from illegal and unfairly traded goods. It's a tough job CBP's got on its hands, working with other law enforcement agencies and foreign governments to go after the source of these problems. If the administration is focused solely on hiring an army of Border Patrol agents, I don't see how that is going to build up CBP's capacity to deal with these counterfeit challenges. So the Congress and the administration need to guarantee that CBP has the resources it needs to combat counterfeiters, and that it actually follows through.

This is a matter of protecting families from harmful products and preventing rip-off artists from undercutting the American brand. It's essential that the federal government take the right approach with fresh policies that take the realities of our modern economy into account.

I look forward to hearing from our witnesses on these issues today.

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