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**Certified
Management
Accountants**

Anti-Counterfeiting Trade Agreement

Submission to the

**Consultations and Liaison Division
Anti-Counterfeiting Trade Agreement
Foreign Affairs and International Trade Canada**

by

CMA Canada

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INTRODUCTION

The Society of Management Accountants of Canada (CMA Canada) is pleased to participate in the public consultation process regarding the Government of Canada's participation in developing an International Anti-Counterfeiting Trade Agreement. CMA Canada has been a longstanding advocate of enhancing Canada's productivity record and has been a vocal supporter of initiatives aimed at promoting productivity growth. We therefore firmly believe that protecting intellectual property rights fosters and encourages innovation, one of the key drivers of productivity.

WHO WE ARE

CMA Canada is the Canadian governing body that grants a professional designation in strategic management accounting. It is responsible for standards-setting, accreditation and the continuing professional development of Certified Management Accountants (CMAs), regulating its members under the authorization of provincial legislation. CMA Canada represents 40,000 CMAs and 10,000 CMA Candidates and Students. Our members range from senior level managers in the public and private sectors to sole practitioners operating as business consultants and auditors.

Working in organizations of all sizes, CMAs provide an integrating perspective to business decision-making, applying best management practices in strategic planning, finance, operations, sales and marketing, information technology, and human resources to identify new market opportunities, ensure corporate accountability, and help organizations maintain a long-term competitive advantage.

EVIDENCE OF COUNTERFEITING AND PIRACY

In the spring of 2007, both the House Standing Committee on Industry, Science and Technology and the House Standing Committee on Public Safety and National Security concluded major studies of counterfeiting and piracy of intellectual property (IP) and goods in Canada. Committee members received evidence of automotive brake pads being made with sawdust and of prescription drugs containing dangerous additives or no active ingredients at all. Software piracy has resulted in 32,000 job losses and \$345 million in lost tax revenues.

EVIDENCE OF COUNTERFEITING AND PIRACY (continued)

Members of Parliament also learned about the Canadian Anti-Counterfeiting Network (CACN) report, released in March 2007, highlighting the extent of the economic damage done to Canada by counterfeiting and piracy activities. Among other things, the CACN found that the loss to the software industry in 2005 as a result of piracy was approximately \$736 million, and that the annual consumer spending loss in Canada in 2005 due to film piracy was estimated to be \$270 million.¹ Moreover, the CACN report stated that there was a clear link between organized crime and counterfeiting, with organized crime involvement at some or all points of the supply chain.

Based on this and other evidence, the Public Safety Committee concluded in its report to Parliament that,

“In light of the evidence heard, there is no doubt that counterfeiting and piracy cause economic harm to intellectual property owners, private companies and Canadian governments. In addition to the economic impact of these activities, there is no denying that the presence of counterfeit goods on the Canadian market represents a serious health and safety risk for Canadians.”

The recommendations of the two Parliamentary Committees illustrate the role the federal government must play in establishing a legal framework that vigorously protects copyrights and trademarks and strongly enforces intellectual property laws. Among their several recommendations were the following two with cross-border implications:

- Prohibiting the importation of counterfeit and pirated products into Canada.
- Ensuring that adequate financial and human resources are available to Canadian border officials and law enforcement agencies to combat counterfeiting and piracy of intellectual property.

Although neither Committee specifically recommended entering into anti-counterfeiting trade agreements, it is clear that international agreements constitute an important role for the federal government to play.

THE LINK TO PRODUCTIVITY

Of particular concern to CMA Canada is the direct link between counterfeit and pirated intellectual property and Canadian productivity. The one piece of troubling news in an otherwise admirable story of national economic performance is Canada's record on productivity growth.

¹ *Report on Counterfeiting and Piracy in Canada: A Road Map for Change*, The Canadian Anti-Counterfeiting Network, March 2007, page 5.

THE LINK TO PRODUCTIVITY (continued)

CMA Canada believes that the single biggest economic question facing Canada today is how to bring the country's productivity growth back, at a minimum, to pre-2000 levels. Answering this question correctly is the key to improving the standard of living enjoyed by Canadians. The answer to this question lies, at least in part, in protecting the rights of intellectual property owners.

The Organization for Economic Co-operation and Development describes the three core drivers of a nation's productivity growth as "human capital, physical capital, and innovation."² Furthermore, research has discovered that strong protection of intellectual property rights can promote innovation.³ Laws are put in place to protect the intellectual property rights of authors and inventors in order to encourage their pursuit of innovation. Holding the rights to intellectual property is a reward to the innovator for his or her contributions to a society's economic and/or social development. It is imperative, therefore, that the linkage between protecting intellectual property rights, promoting innovation, and improving Canada's productivity performance be strengthened. Participating in a trade agreement with international partners having the same public policy goals would represent an important step in meeting this key economic objective.

CONCLUSION

CMA Canada believes that Canada must be more active in protecting intellectual property rights. Doing so delivers economic advantage to Canada. It is also imperative that we are perceived as being more active by sending a strong signal to counterfeiters and IP pirates. This would reinforce the image that Canada takes the protection of IP rights very seriously. We are, therefore, supportive of the Government of Canada's initiative to enter into an agreement with like-minded countries to agree on measures to combat counterfeiting and piracy.

By increasing international co-operation, establishing best practices for enforcement, and providing a more effective legal framework to combat counterfeiting and piracy, the proposed Anti-Counterfeiting Trade Agreement (ACTA) would play a significant role in protecting intellectual property rights and encouraging innovation, one of the key drivers of productivity.

² *Canada's Success is No Accident, And It Isn't a Given*, Kevin Lynch, Policy Options, April-May 2006, page 12.

³ *Lessons for Canada from International Productivity Experience*, Andrew Sharpe, International Productivity Monitor, Number 14, Spring 2007, page 27.