

**HIGH CLAIMS FOR COMPENSATION
FACT SHEET****General information on applicable law**

- Importing counterfeits for private use is not a punishable offence. The law only sets out a penalty for persons who import goods for commercial purposes.
- Customs may detain counterfeit goods that were purchased for personal purposes, but the person who ordered them need not fear any penalties.
- Nonetheless, the rights holder (trade mark owner) can claim compensation for the loss or damage they have suffered due to the import of the counterfeit item in question.
- This kind of claim generally comes from a lawyer.

Amount of claims

- Swiss law follows the principle that compensation may only be paid for loss or damage that has actually occurred. The injured party must prove in each individual case that they have actually suffered loss or damage.
- The actual costs payable by the rights holder for an intervention by the Customs Administration in each individual case are:
 - o at least CHF 50.00 for each communication
 - o at least CHF 50.00 for destruction
 - o at least CHF 50.00 for delivery of a photo (see the customs fee ordinance, available in German, French and Italian)

It is unclear

- whether lawyers' fees can be claimed as loss or damage. If the person who imported the counterfeit item immediately agrees to the item being rapidly destroyed and does not raise any objections, the costs are likely to be very low or negligible.
- Importing one single counterfeit for purely personal purposes
 - o is most likely not an offence under competition law
 - o hardly dilutes the trade mark

In general, not every claim for compensation by a rights holder is well-founded. However, it is difficult to dispute a certain amount of loss or damage, especially given the customs fees.

We condemn all forms of deliberate infringement of intellectual property rights. On the other hand, there is no need to simply accept poorly proven claims that are possibly too high or unjustified. So if you have the impression that you have been presented with an excessive claim, you should ask for proof of the loss or damage that was actually incurred.

STOP PIRACY is the Swiss anti-counterfeiting and piracy platform. The non-profit organisation works to educate and raise awareness among consumers as well as to promote cooperation between the business community and the authorities. STOP PIRACY provides the general public with facts, analyses and information about the risks of counterfeiting and piracy, and what lies behind them.

You can find further information about counterfeits and piracy at: www.stop-piracy.ch