



**Association Francophone des Utilisateurs
de Logiciels Libres**

**French speaking Libre Software Users'
Association**

Promouvoir les logiciels libres ainsi que
l'utilisation de standards ouverts.

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[L'association](#) [Presse](#) [Communiqués](#) [Nouvelles](#) [Blog](#) [Interopérabilité](#) [Éducation](#) [Droit d'auteur](#)

[Professionnels](#) [Groupes de Travail](#) [Utilisateurs](#)

[Communiqués de presse](#) > [Consumption: Towards a ... "Racketware" in France.](#)

Consumption: Towards a multiplication of trials for the refund of "Racketware" in France.

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After the third trial won by a private individual, the French associations AFUL, April, UFC-QueChoisir and CLCV are calling for a multiplication of refund procedures for software imposed when buying a new computer. A refund guide is made available, dedicated to French consumption laws.

Paris, February 28

For the third time within a short period, a proximity judge (Libourne) condemned a constructor (ASUS) to refund software imposed when buying a new computer [1]. Once more, the constructor had to give up his pretense to offer a derisive amount of money and to couple the refund with a dissuasive procedure.

Other trials are awaited in the months to come.

Faced with the constructors' reluctance to respect their contractual refund obligation and, beyond that, to respect the ban on bundled hardware-software sales (art. L122-1 of the French Consumers' Code), associations AFUL, April, UFC-Que Choisir and the CLCV are encouraging consumers who have no need for the preinstalled software to stand up and defend their rights in court. In order to help them, a "Refund Guide" [2] has been put online by the AFUL workgroup against bundled sales. Beyond the incidence on the purchase price and beyond the limitation of choice for the consumer, let us also recall the gravity of the situation from the point of view of competitiveness, as recently denounced by the Globalisation Institute [3]. Bundling has set up a monopoly and perpetuates it, by keeping Microsoft Windows' competitors from accessing the market. Among these is the operating system developed by French company Mandriva [4].



While pretending to follow demand, the constructors in fact orient it. This is all the more unacceptable given that an ever increasing number of consumers, just like the administrations [5], the members of the French Parliament [6], and most importantly business companies [7], are turning towards alternative solutions, and given that the Microsoft's emblematic software, Vista, is particularly criticized and rejected by the public [8]. One should therefore not be impressed by the sales by millions claimed by Microsoft: they are imposed through bundling.

The fact that this situation has not evolved, despite our repeated demands [9], is above all due to the apparent will of the French Authorities to deny the problem and not to enforce the legislation that forbids bundled sales. In the name of a supposed interest of the majority [10], they maintain a monopoly and deprive each person from the freedom to buy a computer with or without software.

It is important to note that concrete proposals have been made, in particular the distinction between "pre-installation" and "pre-activation", as it already exists for professionals. The client would, if he wished, acquire an activation key, through a CD with the corresponding program, at a price specified separately from that of the computer. One or more programs could nevertheless be preinstalled on the computer. Hence, nothing justifies the current situation of a systematic, compulsory and uniform bundled offer (Windows for everybody).

References

1. [Verdict of the Goujon-ASUS trial \[fr\]](#) from February 13, 2008 (PDF, 7 MB).
 2. [Refund Guide](#).
 3. [Study by the Globalisation Institute](#) (PDF, 1,3 Mb) and its [French translation \[fr\]](#).
 4. [Mandriva](#), previously Mandrakesoft, produces the Mandriva Linux operating system, one of the most complete and easy to use. Mandriva is registered at the Euronext Free Market in Paris.
 5. After switching to [OpenOffice.org](#) and Firefox in 2004, [the French Gendarmerie \(military police\) switches to GNU-Linux in 2007](#). In 2005, [the financial administration intends to migrate to OpenOffice.org](#). In 2007, [the agriculture department opts for OpenOffice.org](#). See also the [census of migration to Free/Libre software](#).
 6. An office computer equipment is put at the disposal of every member of Parliament, in his office at Assemblée Nationale. Each member of Parliament has access to two computers configured with FLOSS (GNU-Linux as operating system and OpenOffice.org as office suite). See the summary file : [Computer equipment at Assemblée Nationale](#).
 7. See the [report on economic models based on FLOSS](#) and the [white book about economic models of FLOSS](#).
 8. [What Windows Vista is lacking. \[fr\]](#).
 9. [Common letter](#) from AFUL, April, CLCV and UFC-Que-Choisir to Bruno Parent, Head of the DGCCRF, to Luc Chatel, Consumption Secretary, and to Christine Lagarde, Minister for Economy.
 10. Common press release by AFUL, April, SCIDERALLE : [The consumer? What interest!](#)
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About the undersigned organisations

AFUL (www.aful.org)

The *French speaking Linux and Libre Software Users' Association* (AFUL), AFUL aims to promote libre software and the use of open standards. AFUL is a non-profit association that gathers users, professionals, companies and other associations based in more than a dozen French-speaking countries and regions (France, Belgium, Switzerland, Quebec, French-speaking African countries, etc.).

Partner of many media, AFUL is present at many exhibitions, conferences and meetings. In particular, it has an active role against bundled sales ([Workgroup against bundled sales](#), [racketiciel.info](#) petition, [bons-vendeurs-ordinateurs.info](#) comparative list of computer vendors), in favor of interoperability (member of AFNOR, participation to Interoperability and accessibility Referentials by DGME, [formats-ouverts.org](#) website, etc.), as well as on issues concerning [Author Copy rights](#).

Press contacts:

- Alain Coulais, representing the [Workgroup against bundled sales](#), alain.coulais@aful.org +33 (0)6 20 61 43 66
- Bernard Lang, Vice-President, bernard.lang@aful.org +33 (0)1 39 63 56 44
- Press contact - AFUL : presse@aful.org

April (www.april.org)

Since 1996, April, pioneer of free software in France, has been a major actor for the broadcasting of free software and open standards among the general public, among professionals and institutions in the French-speaking community. In the numeric era, it also cares to awake the public opinion on the dangers of information and knowledge being possessed exclusively by private entities.

The association totals more than 1900 members, users and producers of free software, among which more than sixty companies, around fifty associations and one township.

Press contacts:

- Frédéric Couchet, General Delegate, fcouchet@april.org +33 (0)6 60 68 89 31
- Alix Cazenave, Commissioner, acazenave@april.org +33 (0)1 46 49 25 15

UFC-Que Choisir (www.quechoisir.org)

UFC-Que Choisir is a Consumer Defense Association. Very active on this topic, it brought an action against department stores Auchan and Darty as well as HP for bundled sales at the French Tribunal de Grande Instance.

Press contacts:

- Edouard Barreiro, New Technology Commissioner, ebarreiro@quechoisir.org

CLCV (www.clcv.org)

CLCV (Consumption, Housing, Living Environment), created in 1952, is one of the main Consumer Defense Associations. It is independent and acts in all fields of everyday life, consumption, housing, environment, to protect and develop the rights of consumers and users. Through its 400 local associations, it advises and informs consumers to help them enforce their rights. CLCV is a member of the European Consumers' Organisation (BEUC) and of Consumers International.

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