



[FedoraForum.org](http://forums.fedoraforum.org/index.php) (<http://forums.fedoraforum.org/index.php>)

- [Linux Chat](http://forums.fedoraforum.org/forumdisplay.php?f=43) (<http://forums.fedoraforum.org/forumdisplay.php?f=43>)

- - [I've installed Linux, now give me my Windows refund](http://forums.fedoraforum.org/showthread.php?t=139627) (<http://forums.fedoraforum.org/showthread.php?t=139627>)

Scruffy

2006-11-30 09:30 AM CST

I've installed Linux, now give me my Windows refund

Not sure if this should go in this forum or the Wibble forum but ...

Ok, the topic of someone in the UK getting a Windows refund from Dell came up in the Linux Chat forum. As I have just purchased a new laptop that came with Windows Media Edition (wtf?) and that has been wiped to accomodate FC6 I have decided to have a laugh and attempt to get a refund.

This thread is going to be dedicated to that attempt. Whenever I contact or hear from Acer I will post the details in this thread.

Maybe, just maybe, if there is difficulties ahead people can advise me.

Anyway, today I sent an email to Acer (Euro). I checked out the UK site and there only seems to be one email address available. Typically it mentions technical support but what the hell, I email them anyway. Here is my email:

Enquiry into MS Windows refund

Dear Sirs/Madam,

I have recently purchased an Acer Aspire 5100 Series notebook from Insight (UK) Ltd through my place of employment. This notebook was pre-installed with a copy of Windows XP Media Center Edition 2005 (Acer Incorporated) which is not required as I use and have installed the Gnu/Linux distribution Fedora Core 6 on said notebook.

As I understand it, if I do not require the copy of Windows that has been preinstalled on this notebook and I have not agreed to the Microsoft Windows End User License Agreement (EULA) then I am entitled to a full refund to the OEM copies of Windows Media Centre Edition.

Please send me details as to how I can obtain this refund.

With regards,

Scruffy

Ok, now we will wait for a reply. :)

Dan

2006-11-30 09:44 AM CST

Oh, this I gotta watch! Well done, Scruffy!

Dan

rappermas

2006-11-30 04:56 PM CST

Good job, I'll stay tuned.

I still think it should be Microsoft that pays the bill, not the OEM.

kona0197

2006-11-30 06:39 PM CST

Hope you took pictures of yourself clicking no on the XP EULA. That's how the other guy got his refund from Dell.

Scruffy

2006-12-01 10:02 AM CST

Refund update

OK. One day after sending my email I have had a reply from Acer:

Hello, Thank you for contacting Acer.

Regarding your enquiry,

The Acer OEM software installed on your machine is pre installed and activated in the factory. It is an integral part of the machine you have purchased and is bundled with the physical hardware of the computer. We are unfortunately not able to refund the operating system as it is not a separate item. It comes as part of the computer you have purchased.

As you can see they are not willing to refund any money. So what do I do? Well, first things first, let's see if they are lying. I have already removed Windows from the machine and the machine works perfectly, so it is not an integral part of the machine. They also say that Windows ...

and is bundled with the physical hardware of the computer.

It may be but I am rejecting the license itself, because I don't own Windows.

OK. Time to call their bluff. My first response is to get the Windows XP Media Center 2004/5 Edition EULA from Microsoft to see what my rights are for a refund. I have gone to their website and filled in a form asking for them to email me the EULA for this edition.

My response to Acer:

Thank you for your email.

Unfortunately, due to unfair licensing practices, Windows comes with most computers that are purchased and most people have to pay for Windows whether they like it or not, even if they are looking for a naked machine, ie one without an operating system installed. As you may well know that finding a naked notebook is difficult and can be expensive. Because of this several complaints have been put to the European Union asking them to investigate. This has been reported in the press (see http://seattlepi.nwsource.com/busine..._msfteu01.html). This, as you may have heard, is referred to as the 'Microsoft Tax'.

Now, I chose this notebook because I liked the specs and the price was affordable to me. My intention was to put Linux on the computer and use open source software so I have no need for the pre-installed version of Windows. I have looked at your website and cannot find any notebooks with equivalent specs not being preloaded with Windows. Also, I could not find another notebook with equivalent specs that was available at the same price without an OS preloaded. In essence, I cannot find a notebook provided by you or by a competitor that offers the notebook naked (no OS) or for a similar price/spec.

Unfortunately, your email to me does not ring true. You clearly state that the OS is an integral part of the machine but I have managed to not only wipe the OS from the system, I have managed to install a competing OS on the computer and the machine is still working ok. Looking up the word 'Integral' in a dictionary returns the following results:

1. (adj) Essential or necessary for completeness; constituent
- 2.(adj) Possessing everything essential; entire
- 3.(n) A complete unit; a whole

As Windows is not the only OS in existence then number 1 doesn't apply, as it is not essential for you to use Windows to use this notebook. As Linux contains everything I need then number 2 does not apply, as Windows does not possess everything I need because if it did then I would have no need to look at Linux. I have demonstrated that Windows on this notebook does not make it a complete unit, otherwise removing it would mean the machine could not function.

If I was to accept that the OS is an integral part of the computer then maybe you can explain to me why I cannot use the OS to it's full functionality without the need to purchase further parts. You claim that this is part of a bundle but without the extra parts then this bundle is severely lacking any function. The system is supposed to be a media centre notebook but to actually get the media centre part to work I will have to spend extra money on a remote control, TV card, cables etc. This therefore tells me that the OS is not integral to the system. If it is then there are items missing from my bundle that I would like you to forward to me at no extra cost.

With regards to your other point in the operating system is bundled with the computer I would disagree. There has been numerous occasions where the bundled operating system was not required and, after a long fight, the end user has successfully negotiated a return of funds for the unwanted system. You claim that the operating system is bundled with the computer but you do not offer a computer that is operating system free therefore you limit customers options. The same also applies to other notebook manufacturers in that they too bundle Windows with notebooks and do not offer alternative operating systems therefore they limit customers options. It also seems your

comment can be interpreted in two ways:

No.1 is not true. If it was then there would be no reason for an EULA from Microsoft. Since you do not provide an EULA for me to examine before the computer purchase you are automatically expecting people to agree with Microsofts restrictions of use.

2. Because there is actually a lack of Windows media disc in the bundle, which would be needed if the hard drive failed, the Windows setup media is located on the hardware itself, therefore it cannot be physically removed from the machine.

No.1 is not true. If it was then there would be no reason for an EULA from Microsoft, or at least an option as to whether you accept it or not. If I choose no to the EULA where would that leave me? You do not provide the EULA for viewing when I purchase the product so I would be left with a dead system, or a dead Windows license that cost me money.

No.2 is also not true. If it is, please tell me how, without a Windows media disc, I reinstall Windows. Please, consider my installation of Linux just a weird assimilation of the hard disc failing, where I would physically need to reinstall Windows. Please tell me how I do it without a media disc? Please remember that without an OS on the hard drive I also have no internet connection so I cannot download any files. Not until Windows is put on, that is?

Finally, I would like to point out something that is in the EULA for Windows. This is extremely important because you are clearly stating that the operating system comes bundled with the computer. In the EULA for Windows it clearly states that when you purchase a copy of Windows you are not in fact purchasing Windows but purchasing a license TO USE Windows under certain restrictions/conditions. It is this license that I am rejecting and the EULA clearly states that if I do not agree to the EULA I am entitled to a refund. I have emailed Microsoft and asked them to send me a copy of the EULA so I can clarify that. Let me make this clear that by purchasing this computer I have also purchased this license for Windows, the license is unwanted and I want a refund for it as the EULA says. I know I am entitled to it, as has been proven recently by Dell refunding a Linux user for the unwanted Windows user that came 'bundled' with the notebook he purchased from Dell, where he was essentially forced to buy the notebook WITH Windows because no system was available WITHOUT Windows. I paid you for the license, as part of the cost of the computer, so I am asking you for a refund for part of the computer that should not be a part of it but an option.

The fight starts.

pete_1967

2006-12-01 11:10 AM CST

Don't forget that if they keep refusing, contacting Trading Standards Office often brings the results ;)

sentry

2006-12-01 11:22 AM CST

Go Scruffy! Great letter, great points :)

This is very interesting, I can't wait to watch how they handle this. It seems to me that you're trying to exercise your legal rights as a consumer, so power to you.

rappermas

2006-12-01 05:09 PM CST

Give 'em hell!

Everyone should be doing this..

cypher543

2006-12-02 08:27 AM CST

Very nice! I enjoyed reading those letters. You bring up many good points, and after reading the latest letter, I can't see how they could refuse. I would gladly jump on the bandwagon and try this, but my computer didn't come bundled with Windows. :(

Zotter

2006-12-03 06:18 PM CST

Tried to drum up a tad o interest - didn't get too far. Oh well.

http://digg.com/software/I_ve_instal...Windows_refund

cypher543

2006-12-03 08:31 PM CST

From my experience, posting a link on digg about any kind of Linux-Windows feud is like posting a link to some AJAX tutorial. There have been so many that no one really pays attention to them anymore. Plus, it's a good way to start a very entertaining Linux/Windows/Mac debate. ;)

Anyway, despite the comment by cday on digg, I think you have a pretty good chance of seeing this succeed.

scotta3234

2006-12-03 09:10 PM CST

Even if you don't get a refund (although I'm hoping you do) enough people doing this brings light to the issue of manufacturers providing linux alternatives, especially when it comes to the hardware market. The more demand, the more support and cooperation. In theory at least.

techmatt

2006-12-04 05:16 AM CST

I am going to do this on my next laptop. hehe

Scruffy

2006-12-04 09:20 AM CST

OK, here is the next installment. At the moment this is basically Acers reply. I have to think about drumming up a return email to them. I am far from happy with this reply and you will see why from

what they have written. I will try and detail in this post why I am unhappy.

Hello, Thank you for contacting Acer.

Regarding your enquiry,

The Microsoft OEM end user license agreement states that refunds of the windows operating system are made in accordance with the manufacturer's return policies. The following is quoted from the EULA on a brand new Acer Aspire.

'If you do not agree to the terms of this EULA, you may not use or copy the software, and you should promptly contact manufacturer for instructions on return of the unused product(s) for a refund in accordance with manufacturer's return policies.'

Acer's policy is not to provide a refund for the windows operating system. This is because it is preinstalled and activated, thereby classed as used and not able to be resold with another computer. As previously stated it is a part of the product you have purchased and not a separate item, you were invoiced for the entire computer upon purchase, not for a computer and an operating system.

The Acer OEM installation of windows can be reinstalled in two ways. The first time the machine is used you are requested to create a set of recovery cds. These can be used to restore the original installation, further sets can be made at any time with the eRecovery software. You can also use the hidden partition for restoring windows to the factory installation by tapping Alt + F10 on bootup of the machine.

Regards

As you can see from their reply there are several interesting points. First and foremost they kindly quote the MS EULA for Acer's XP Media Centre Edition. To quote again:

Quote:

'If you do not agree to the terms of this EULA, you may not use or copy the software, and you should promptly contact manufacturer for instructions on return of the unused product(s) for a refund in accordance with manufacturer's return policies.'

Since the EULA is Microsoft's restrictions for the operating system we have to assume that the 'unused product(s)' is the operating system itself. If it is to include the hardware then this should have been clearly mentioned in this paragraph.

I have clearly stated in two emails that I do not and have not agreed to the MS EULA for Windows XP Media Centre Edition 2005 for the Acer computer. My first email clearly stated that I did not agree and was enquiring about how to obtain a refund. So far I have followed this part of the EULA. Interestingly though, where do I stand with not agreeing with the EULA and the refund? Since I rejected the EULA I have also rejected this statement, have I not?

Also, as mentioned above, by rejecting the EULA I have rejected the operating system and not the computer itself. If the above statement is from the MS EULA on a brand new Acer Aspire then the EULA stands for the operating system itself, not the computer as a whole. If the EULA also represented

the computer hardware then the person should have mentioned this. Mentioning it after the fact WILL NOT BE GOOD ENOUGH.

Secondly,

Quote:

This is because it is preinstalled and **activated**,

So what does this say to you? Well, to me it says that Acer took the liberty to assume that I would agree to the EULA. If the machine has been pre-activated then I have in essence agreed to the EULA. They are saying that even if you reject Microsoft's EULA then it is tough because we activated the product for you. In other words, whether you like it or not the product is forced onto you.

Which brings me to the third point:

Quote:

This is because it is preinstalled and activated, thereby **classed as used** and not able to be resold with another computer.

Classed as used? So before you even get the notebook out of the box and power it up the operating system is already second hand tat! It is a 'Used' product.

Finally, they mention that I was charged for a computer, and not a computer and an operating system. Well I know this. The Dell person was also charged in this way but he got a refund. In fact, everybody is charged this way. This is because Windows is pre-installed on the systems in advance. It is pre-installed in advance in an attempt to lock the users into this operating system. Why do you think they do not give OS discs out? Well, I cannot be 100% sure but IIRC this was encouraged by Microsoft and Microsoft encouraged the OEMs to charge extra if the user asked for a disc (which is good). By not giving the discs out you cannot give copies away. By not giving discs out the user may end up purchasing a full retail copy IF THEIR SYSTEM GOES DOWN ie., hard drive fails and needs replacing (which is bad).

Ok. I am now going to think about my reply. If anyone has ideas I would appreciate suggestions (apart from some of the above). At the moment I will hold off mentioning Trading Standards but I will compare this to the Dell issue.

In the meantime, to show I am not going away, I have sent this email because the advice I am getting is from Acer Technical Support and this issue is a Customer Support problem. :)

Thank you for your mail and your time once again. I do appreciate your comments on this issue.

I have noticed that you are part of the Acer Technical Support and although I appreciate your help on this issue I feel that this issue should be dealt with by Acer Customer Services. I originally got this email address from Acers UK website and that was the only email address available on the contacts page. Could you please forward me the

address of your Customer Services department or at least get the Acer UK Customer Services department to contact me.

Again I thank you for your help on this issue.

JN4OldSchool

2006-12-04 09:42 AM CST

lol, give em hell! I wonder if we dont have a class action against MS here? Just on the principal I dont accept the EULA and want my money back!

cypher543

2006-12-04 11:31 AM CST

This is very entertaining. I was shocked when they said the laptop was classified as "Used". You could certainly get them in a lot of trouble if you could find an advertisement for your laptop that says "Brand new" or something like that. That would be false advertising. Also, look around and see if you can find a place that actually states that Acer does not provide a refund for Windows. If you can't find it, then they have failed to provide all relevant information regarding the product, therefore the "no Windows refund policy" does not apply since it is not located anywhere on their website. ;)

kona0197

2006-12-04 11:34 AM CST

Mention a lawsuit in there somewhere. That will tell them you mean business, I wish you luck.

cypher543

2006-12-04 11:36 AM CST

Quote:

Mention a lawsuit in there somewhere. That will tell them you mean business, I wish you luck.

I don't think that would be wise. Something like this should be done in a kind manner if at all possible. Just saying you are going to sue them could make them angry and defensive. Next thing you know, there's a lawyer at your doorstep.

JN4OldSchool

2006-12-04 11:46 AM CST

yeah Cypher, it's not the laptop thats used, it's the OS...though according to Accer they are "bundled" lol. But no, you wont get anywhere against Accer anyway, this is more just to make the point. In fact, you should post the customer relations address in here, we can all email them, nicely of course, and explain that it would be in their best interest to jump the laptop competition and offer a laptop with no installed OS. But as far as lawsuits, they are covered. The only way to go after a corporation like Accer or even better MS would be through a class action...tort I believe is the term where you have

hundreds and hundreds of people suing through one case. But MS wont care, they have the money to drag it out and even if they lose...so what? Wont hurt them, but it may make them ease up on their MS tax.

cypher543

2006-12-04 11:52 AM CST

Quote:

yeah Cypher, it's not the laptop thats used, it's the OS...

Oh well... I must have misunderstood. :D

bob

2006-12-04 12:29 PM CST

It would seem that the difference between the Dell refund and Acer is that Dell does sell machines with Linux or no OS at all installed, whereas Acer only sells Windows machines. I'm sure that Acer has already had a quick meeting on this issue and determined it's policy and you are one of the recipients of a 'standard' reply that they have come up with.

As many of us are involved in posting at Digg.com, I'm sure they'd be interested in knowing that the results of your correspondence may be showing up there in the near future, thus taking their words directly to the buying public. Of course, you're right in contacting someone above the tech support group to make your case.

Linux The Great

2006-12-04 01:04 PM CST

My HP laptop came with the windows CD, and I seem to remember having to agree to the EULA when I first turned it on.

You'll have to look at the details of what you purchased exactly (i.e. whether or not you were suppose to get Windows XP, just a licence for Windows XP, or a laptop that happens to have Windows XP on it). The way I see it, you haven't been given the first two things (a CD or a Licence) because you were never presented with the EULA. If you "the consumer" haven't been giving something that you paid for, you can lodge a complaint toward Acer.

Also see if the EULA says anything about a user not being allowed to use Windows XP without agreeing to the licence. If this is the case, you may be able to claim that Acer hasn't provided you with a legal copy of Windows XP.

Technically.... if you don't agree to the terms of the agreement, you shouldn't be bound by any of the restrictions. I can't think of anything you can do with this power, but it's nice to have I guess.

ZeusZon

2006-12-04 01:31 PM CST

I heard about a guy in a computer magazine getting a refund on his XP, from Dell.

He was annoyed that he received a good will gesture from Dell in the end. And not a full refund directly from Microsoft.

Can't find the magazine. But the small claims court rings a bell.

I'm surprised Acer responded to you. Some companies would just discard emails like that. With this sort of thing the telephone is much more powerful.

Probably the best thing to do, if your going to buy a computer with XP on it. Call sales dept or technical support first and enquire about OS's refunds.

Flounder

2006-12-04 01:34 PM CST

Well I know threatening works well with Eve Online. Whenever I lost a ship due to the servers heavy lag and I sent an e-mail threatening cancel my subscription with them that they were very prompt to replace my ship for me. Whenever I left that tidbit out they basically did not. However in this case acer already has your business and they have more resources than you do for a lawsuit, they may also counter sue. In this case I think the rest of us should just take our business elsewhere.

Iron_Mike

2006-12-04 01:52 PM CST

This is getting good but on this note:

Also, as mentioned above, by rejecting the EULA I have rejected the operating system and not the computer itself. If the above statement is from the MS EULA on a brand new Acer Aspire then the EULA stands for the operating system itself, not the computer as a whole. If the EULA also represented the computer hardware then the person should have mentioned this. Mentioning it after the fact WILL NOT BE GOOD ENOUGH.

Why not mention since if the OS is part of the package and not separated from the hardware and you do not agree to the EULA, you will be returning the whole thing and expect a FULL refund.

Dan

2006-12-04 02:36 PM CST

Hi Flounder.

In other circumstances, I might agree. However. This is a matter of principle, and a result of bad behavior that has persisted far too long. I don't believe I would threaten any lawsuits. That tool is most effective when the first they hear about it, is from the process server.

I would however spend a little money, and blow it past a decent attorney. The third request for redress, might get more attention if it's on a shyster's letterhead.

Dan

cypher543

2006-12-04 02:45 PM CST

My economics teacher taught us at the beginning of the year that customers are entitled to a refund on a product they purchased despite the company's refund policies. This is how I managed to get a refund on a video game I received as a gift and didn't like, even though Walmart has a "no return/refund" policy on computer software and video games.

But i would have to agree with TangledWeb... I think you should run this info by an attorney and see what they think. Then fax or mail his/her thoughts to Acer. Also, I wouldn't email them anymore. My economics teachers also said that email is unprofessional in a case such as this and shows that you aren't determined enough to sort it out. I would try calling them or sending them a formal letter through mail or fax. It's harder for them to say no over the phone, because they know you could sit there and argue with them.

rappermas

2006-12-04 07:23 PM CST

We all need to e-mail Acer and pretend that we're going to buy something if we can get a refund on Windows. Here I go...

Scruffy

2006-12-06 08:45 AM CST

Cypher543 - I have thought about examining their refund policy and will be taking a look at both the documentation provided and the website. Also, although communication with Acer would be better via a letter or the telephone, by doing it by email I can keep a complete history of my communication and also deal with the situation quicker. I don't think there is a difference between letter/email except speed and the email will definitely reach the intended recipient as long as I have the address (which I unfortunately do not). However, I do think it may be worth me tracking down some of the Directors of the company and sending them a letter informing them of my actions and intentions.

Kona0197 - As mentioned by other people, mentioning a lawsuit would not be a wise thing. If it was to come to that then it would be advisable, as already suggested, that I approach a solicitor first. I think JN4OldSchool is right, in that Acer probably are covered in some way. As for posting the email address I will consider that, although it is readily available on the UK website. It's not hard to find because it is the only one available.

bob - There is no difference between Dell and Acer because both do not sell notebooks with no OS or a flavour of Linux installed.

Linux the Great - The laptop did not come with a media CD. This is supposed to be created by me in the way of a restore disc. As most people would not bother it is just another way of Microsoft extracting money off people or encouraging piracy when your drive fails (buy another copy or borrow one). Because this is an OEM machine it does come with a license but the license has to be accepted via the EULA. This I have promptly rejected and according to the EULA I am entitled to a refund, but

only in accordance with the manufacturers return policy. Acer are claiming that their policy is not to accept returns of Windows because they cannot reuse it on another machine. This is bull and will be dealt with in my next email to them. Also, if you do not agree with the license then you cannot use the OS - that is standard to every Microsoft agreement.

ZeusZon - I am not expecting the refund from Microsoft but Acer. That is who the OEM copy is licensed from. If I accept the OS and have problems with it then Acer is who will support it. That is the standard OEM contract AFAIK.

Iron_Mike - Good idea but I like the laptop. I need to specify that I am happy with the hardware but not the bundling. I will reiterate to the customer service that, despite what the Technical Support said, the OS is not an Integral part of the system.

Anyway, I have heard from the "Customer Service", quoted because it is the same email address as the "Technical Support". Their response was:

Thank you for contacting Acer. I would like to take this opportunity to thank you for contacting us.

In response to your query regarding refunds for software supplied with our machines I reiterate what Richard has advised you of previously. It is Acer's policy not to refund the cost of the operating system as it is activated during the manufacturing process and would therefore not be able to be re-used/sold to another end user.

This is in response to the statement in the end user licensing agreement "if you do not agree to the terms of this eula, you may not use or copy the software, and you should promptly contact manufacturer for instructions on return of the unused product(s) for a refund in accordance with manufacturer's return policies."

Some other manufacturers may have different policies regarding this issue due to the differences in their manufacturing process. For example machines made to order have not had their operating system activated as they are made recently and shipped within a few days. In contrary, Acer machine are manufactured to a specification one part of the specification details the software installed, including the Windows operating system and other Acer software etc.

You can contact Customer Services with any issues you may have on the address and fax number bellow as an alternative to replying to this Email,

The thing about this email is that, as well as (already mentioned) the customer services email address is the same as the technical support one, but the email is signed by "Acer Customer Services", has an Acer logo and the words "Technical Support" underneath the logo!! This could just be that technical support forwarded Customer Services reply but it makes my crazy mind wonder why Customers Services don't email me direct. :o)

I like this bit and I had already thought about this and am already prepared:

Quote:

it is activated during the manufacturing process and would therefore not be able to be re-used/sold to another end user.

The problem with this line is that this has nothing to do with the operating system software itself. It is ok that they have installed the software but to claim it cannot be resold/reused is not true. The issue is not with the software but THE LICENSE, and this issue has recently come up with questions about the EULA and claims about re-activation, primarily the transfer of the license to what Microsoft claim (not end users) is a new machine. The EULA for Vista was changed to allow for reactivation to occur more frequently (or something like that) because of home builders. It is also possible for a copy of Windows to be sold or have the license transferred to another user/computer.

This brings me to another issue that needs to be raised and this I think is quite serious. Acer are stating that because they are activating the machine in the factory they cannot make a refund. One of the first things that I am presented with upon first boot is the MS EULA which I can either accept or reject. Now, by my reasoning, Acer are accepting the EULA on my behalf by activating the product and I am being asked to accept this EULA a second time before I can use it, if I so wish. Do they have the right to automatically activate the operating system thereby denying me my right of a possible refund. Why is the machine being activated and then I am being presented with the EULA?

Anyway, I will create my email reiterating several items as before, add yesterdays observations and also add some new ones. Before that though I will check the returns policy. Then I will create my letter to the Acer Directors.

pete_1967

2006-12-06 09:47 AM CST

Was digging a bit and found this:

<http://www.acernotebooks.co.uk/asp/contact.asp>

Note the customer services email: customerservices@acernotebooks.co.uk

Or are they different company altogether?

[edit]

Ref above: doesn't seem to as they refer to same support email address as on acer.co.uk site.

[/edit]

aslan

2006-12-06 11:28 AM CST

I went to go check to see if they were still around.....

Someone mentioned getting a leg up on other manufacturers by offering laptops without the OS pre-installed. A company out in Arizona (IIRC) does just that (although not all of their laptops are this way). I bought my laptop from them in 2002. While it still functions, the battery is long since dead, a lot of the paint on the case has worn off and I've had hardware issues under linux for a number of things, but when I bought it, I paid for hardware, not a M\$ OS.

The site is www.powernotebooks.com. They have high ratings on resellerratings.com (which is where I found them). I wouldn't recommend the Sager equipment based on my experience but they are a

decent middleman to deal with. The owner is very quick to answer questions, even at odd hours (or at least was in 2002). Just a plug for something I think is related to the topic.....

pete_1967

2006-12-06 04:30 PM CST

Quote:

Originally Posted by **aslan**

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That reminded me about <http://www.emperorlinux.com/> they're a company building native Linux laptops, not the cheapest but for what they do, I think they deserve consideration every time someone talks about laptops with Linux.

Iron_Mike

2006-12-06 04:48 PM CST

A few other places to check are: www.pctorque.com and www.discountlaptops.com

What's wrong with Sager ?? My 3790 has been humming along fine since FC4

pete_1967

2006-12-06 05:26 PM CST

Quote:

Originally Posted by **Iron_Mike**

A few other places to check are: www.pctorque.com

What's wrong with Sager ?? My 3790 has been humming along fine since FC4

Classic:

Quote:

We're sorry, the browser you are using appears to be Opera prior to version 7 and is not supported.

Quote:

Version information
Version 9.01
Build 400
Platform Linux

You would think they'd have at least one employee who didn't sleep through his math classes :D

Wayne

2006-12-06 05:39 PM CST

Quote:

Originally Posted by **pete_1967**
Classic:

You would think they'd have at least one employee who didn't sleep through his math classes :D

Grab Opera 9.02. No problem on that site with it here.

Wayne

Duli

2006-12-06 06:13 PM CST

Scruffy, it seems really unfair their response. It's like you have no option. Either you choose to buy the machine WITH Windows or do not buy it at all!

The point they are missing is that it's against consumer protection rules someone deny a sale to you unless you buy it with something else added. Here in my country this behavior is called "married sale", meaning you are obligated to buy two things when you just want one of them. The consumer protection code here forbids this practice, as follows (sorry my limited translation):

Code:

"Art. 39. It's forbidden for the products and service vendors, among other abusive practices:

I - to condition the supplying of products and services to the supplying of other products and services, as well as, without a just reason, to quantitative limits;

II - to refuse supplying to consumers' demands, in the exact limit of stocks capabilities, and, futhermore, in accordance to the usual practices;

... (and so on)" (Law 8.078/90)

I think you should do something about this issue with Acer in justice, according to your country laws.

Cheers,
Duli

aslan

2006-12-07 12:19 PM CST

That is downright awesome that Brazil has that law. I'm not sure that other countries do. It would be interesting to find out and to find out if there are similar cases that establish legal precedence.

To answer the above "What is wrong with Sager?"

1) I have a model 2200T purchased in June 2002. By June 2003, it had made it back to the manufacturer in City of Industry, CA from Maryland (where I was living at the time) twice for repairs. Both times I had to pay shipping to the manufacturer and was without the machine for at least two weeks while it made its way across country, got repaired, and was shipped back

2) less than two years after purchase, the battery gave up the ghost. It was a long drawn out process. Now I wish I had paid the extra \$100 to get a spare.

3) The paint started to come off within the first year.

4) I've had hardware issues with it under both Linux and Windows (I dual boot it since the modem won't work under Linux and I use it occasionally when traveling) that have included the modem, use of file systems (especially NTFS), the battery, the video card (this went away after I started using Fedora, earlier RedHat installations had issues with the SiS chips in the laptop) and now I think the HDD drive might be on its way out too.

Maybe this is common for laptops, I don't know, this is the only one I've really owned. The above reasons make me hesitant to recommend Sager.

That said, I would recommend powernotebooks.com and I will say that Sager's do tend to give you better bang for the buck. They just don't really last as long as I would expect a good laptop to. Things could have changed. As I said, this is based on my experiences. I do credit them, though with actually selling their product and not M\$'s like other manufacturers tend to do.

kona0197

2006-12-07 12:27 PM CST

Powernotebooks.com is NOT what I would consider "cheap". I would do better on Ebay.

Scruffy

2006-12-11 08:26 AM CST

Have finally got around to writing replies! Phew!

Pete_1967 - Acernotebooks.co.uk are a shop/company that deal with Acer computers. It appears that the UK version in Huddersfield are called Easy Computers Ltd.

Anyway, I found this on The Inquirer - <http://www.theinquirer.net/default.aspx?article=36187> - so I thought it would be a good idea to see if I can get a little advice. This person seems to have a little problem with Microsoft so I thought 'What the hell' and emailed her. Unfortunately I have had no reply yet (I emailed last Thursday [7/12]). Typical (future) MP/Councillor - won't help unless they want something in return!

Dear Siân,

I noted with interest your comments with regards to Microsoft and OLPC, which was posted on the IT news site The Inquirer (<http://www.theinquirer.net/default.aspx?article=36187>), to which I fully agree with.

The reason why this caught my attention is that I am currently attempting to obtain a refund for the Microsoft Windows operating system (OS) that comes preinstalled on computers. As you have commented that Microsofts attempts to install their OS on the "One Laptop Per Child" (OLPC) machine I am assuming that you are fully aware of the current situation where Microsoft have a monopoly in the desktop and notebook computer install base, where it is extremely difficult to purchase a computer without the Microsoft Windows OS installed. This is the case whether you require Windows or not and is commonly referred to as the "Microsoft Tax". In the case of desktop computers it is possible to avoid this "Tax" by building your own computer, but that requires knowledge that most people do not have, or vendors are now starting to offer computers without an OS pre-installed but this comes at a higher price in most cases (see Dell). With regards to notebooks, however, it is a completely different story, as it is extremely difficult to find a notebook without an OS installed at a competitive price.

My fight with Acer (UK) is proving to be difficult as they are point blank refusing to issue a refund for the following reasons:

Windows comes as part of a bundle containing the computer.

It is integral to the system.

They activate the product at the factory so the product is used and cannot then be returned.

I have managed to dismiss all of their excuses but it appears to make no difference to them. These are:

It comes as part of a bundle containing the computer. - This part is true but the Windows product, Window XP media centre edition, cannot be used to its full capabilities without the purchase of further products. This proves that the system is not complete with regards to the 'bundle' they are selling, which is a media centre. Also, despite it being part of the

'bundle' it is widely regarded that Windows is a separate component that is fully refundable because you have to agree to a License Agreement (EULA - End User License Agreement), an agreement that puts restrictions of use on the user, before you can fully use the product.

If you disagree with the EULA then you cannot use the operating system. No such restriction is provided for the hardware, only Windows.

It is integral to the system - The OS is not integral to the system as I have successfully managed to remove the Windows OS from the computer and install a version of Linux (Fedora Core 6). To use the computer I require the keyboard, screen, motherboard, RAM etc, and these are an integral part of the system. The operating system, as I have demonstrated, is not.

Activation of the product - This part I find most strange and consider illegal. Acer (UK) have claimed that the Windows OS is activated at the factory and because of this activation the Windows OS cannot be refunded because they then considered it used. This is before the customer has received the product therefore I can only assume that this is just an excuse to not refund money or a deliberate act of sabotage to enable them not to refund money. I consider this suspicious to say the least.

As pointed out earlier Acer (UK) have stated that Windows is part of the computer bundle they have sold. Acer (UK) have clearly stated that they have activated the product in the factory but I still have to agree to the terms of the Microsofts End User License Agreement (EULA) for Windows, and if I do not agree to Microsofts terms and conditions of use then I cannot use the product. Because of this Microsoft Windows must be considered a separate product from the computer itself because there are no equivalent terms or conditions of use that I have to actively agree with, ie by clicking 'Yes, I agree with this license', with regards to the computer hardware, and no restrictions enabled on that hardware. With Windows, however, there is. It also clearly states in the EULA: if you do not agree to the terms of this eula, you may not use or copy the software, and you should promptly contact manufacturer for instructions on return of the unused product(s) for a refund in accordance with manufacturer's return policies."

So the EULA clearly states that I am entitled to a refund but Acer state that because they activated the product, without my approval I might add, the product is considered used and not refundable as they cannot transfer the operating system to another computer. This is a lie because you are effectively agreeing with a license and Microsoft licenses are transferable.

As you may have gathered the issue of Microsoft forcing their hand on the OLPC computers in an attempt to create market domination and vendor lock-in has already happened in this country with regards to notebooks and desktop computers, and people like myself who do not require Windows are still required to pay for the product whether we like it or not. Because of this and also because Acer refuse to refund me the cost of Windows I am being put in a position where I either accept the 'Microsoft Tax' charge or I look into taking this further. I have decided to take this further because this does not just affect me but other UK users also, and it is not just Acer but other computer manufacturers. Dell recently refunded one person for his Windows license which should set a precedent but this, as shown by the attitude of Acer, will be unlikely. To this end I am going to lodge complaints with my local MP, Trading Standards, the Department of

Trade and Industry and the Inland Revenue (because if we cannot obtain refunds then this is a further tax and this should be taken into consideration), and an email to Tony Blair (this may be pointless as he is pro-big business and appears anti-consumer). I will also be contacting and lodging a complaint with the European Union who are currently looking into this situation.

Because of what appears to be an interest by you in the One Laptop Per Child issue and Microsoft itself, I am left wondering as to whether you know of any avenue I can take to bring this issue to the forefront of the government and attempt to get them to mount an investigation into the issue of Microsoft forcing a monopoly on the OS market in the United Kingdom. Also, if you know who I can contact with regards to this issue within both the EU (or an MEP) and the DTI I would be most grateful.

Please be aware that this is not really an issue as to obtaining a refund, which is what I am currently trying to do, but it is regarded as an issue of choice. Although I cannot speak for everyone in the Linux or even Unix community I am sure they will agree that all we want is to be offered the choice of being able to purchase a computer with or without an operating system installed, not as the current situation stands where we purchase something not required and have to either accept it or fight a losing battle to have our money refunded.

Thank you for your time and help, if you are able to provide it.

Continued in next post ...

Scruffy

2006-12-11 08:28 AM CST

Today, I intended to contact the customer service address provided by Pete_1967 but as stated already that appears to be a reseller, not the Acer factory. Instead I have written this email:

Dear Sir/Madam,

As this is a Technical Support email address I have requested a customer service representative to contact me via email. This seems to have been done but the customer service representative mysteriously had the same email address and also had the 'Technical Support' details under the company logo. This may have been just a standard signature for that address but I see no reason why the 'customer service representative' did not email from their own account unless the email was not from customer service. It also appears that the address supplied by the 'customer service' representative (Paul) is in fact the Technical Service and Repairs address. Please ensure that this message is passed onto the Customer Service department or Customer Service manager/director, unless of course Acer does not have a customer service department of any kind. To ensure this goes to the right department I will also be faxing and posting this mail to the West Drayton office.

Now, with regards to this refund I have serious problems with your emails:

According to previous emails from Technical Support (Richard) and 'Customer Service' (Paul) it is Acer's policy not to issue a refund for this OS because:

1. It is an integral part of the machine you have purchased and is bundled with the physical hardware of the computer.
2. Microsoft OEM end user license agreement states that refunds of the windows operating system are made in accordance with the manufacturer's return policies.
3. Acer's policy is not to provide a refund for the windows operating system. This is because it is preinstalled and activated, thereby classed as used and not able to be resold with another computer.
4. ... it is a part of the product you have purchased and not a separate item, you were invoiced for the entire computer upon purchase, not for a computer and an operating system.
5. It is Acer's policy not to refund the cost of the operating system as it is activated during the manufacturing process and would therefore not be able to be re-used/sold to another end user.

In my emails to Richard I dealt with the above and more. Briefly:

1. The operating system is not an integral part of the system, whereas the harddrive, RAM, motherboard, keyboard etc are. You cannot run a computer without the hardware but I have managed to run the computer without Windows, installing Linux Fedora Core 6 immediately upon powering up the system. Integral can also mean 'entire, or complete' and I have demonstrated that this is not true to the bundle sold. To use the OS to the full I will still need to purchase further items. Does that sound complete?
2. This I pointed out in the beginning. I have a choice to accept the Microsoft EULA and if I do not then, according to said EULA, I am entitled to a refund in accordance with the manufacturer's return policies. Well, having looked at your website I can see no mention of any return policies. I am still trawling through your manuals supplied with the machine but have had no luck there. So, according to the EULA I am entitled to a refund in accordance with return policies that appear not to exist.
3. If the operating system is preinstalled then it is no different from other notebook manufacturers like Dell, who have issued a refund to one customer in the UK. If you are activating it then you are preempting that I will accept the license and that is unfair and possibly illegal. If by activating the operating system it's status becomes used then you have sold me a second hand product!, and deliberately changing the status from new to used in order to ensure the customer cannot obtain a refund is possibly illegal. It can be considered an act of sabotage designed to lock users in, or at least obtain money by false pretences as nowhere on your website is it mentioned that the OS is classed as 'used' before the user even unpacks the computer. Even on standard installs activation occurs AFTER ACCEPTANCE OF THE EULA. As far as users are concerned OEM installs do not need to be activated therefore this sounds like an excuse because if I was to reinstall the operating system I would need to re-agree to the EULA but not activate it (as I have had to do on several Dell machines!). Finally, you state that the OS cannot be installed on another computer which is a lie because we are not dealing with a physical product here but, as Microsoft like to make very clear, a LICENSE. As long as this license is not accepted it has never been used therefore it CAN be transferred to another computer. If it can't then that is illegal. But of course, you have preempted this by

accepting the EULA for me by activating the product, despite me having to accept the EULA on first boot.

4. I have been invoiced once, yes, but upon first boot I am forced to agree to a restrictive license on the operating system. This license asks me to agree to conditions of use SET BY MICROSOFT, NOT ACER. Because of this it becomes a separate product as there is no license agreement to use the computer itself, only the operating system. Since this license agreement exists and I have the choice of accepting or rejecting it then the Windows OS install remains a separate product. Remember, the computer may be a bundle but only one part of it has an additional license agreement I have to accept to use it, which is not your license agreement but Microsofts. This makes it a separate product as the EULA states that if I reject the license I cannot use Windows XP. Nowhere does it state that I cannot use the computer!

5. This was reiterated a second time by Acer staff. As already mentioned, we are dealing with a license and not a product. Since the license was never accepted it can easily be re-used or sold to another end user. If you have put the status of the OS as 'used' you are breaking my consumer rights to deal with that product as I may wish.

I fail to see what the problem is except that you are desperately trying to force Windows onto people. You make good notebook/desktop computers but fail to offer the user a choice with regards to the operating system installed. I could understand this if the year was 2003 but Microsoft are not the only manufacturers of viable operating systems now (even only offering Windows in 2003 shouldn't have happened). You are not the only manufacturer who do not offer alternatives to Windows and this situation is being investigated by the EU after several complaints, of which I may have to join.

I also fail to see why you seem desperate to alienate users of GNU/Linux distributions. Since Dell have already set a precedent by reimbursing a user surely you do not want GNU/Linux users to consider Dell computers over Acer computers? The majority of users are not knowledgeable so having Windows installed and having no rights will be ok for them but there are other users, knowledgeable and influential users, who use systems other than Windows and, even though these knowledgeable users may only make a small percentage of your overall sales you seem to be willing to alienate them and their future custom. This is indeed strange, especially since the knowledgeable are the first people the normal user turn to when they want recommendations and it seems that you are willing to throw away custom whereas Dell do not.

I will reiterate that I do not have a problem with the hardware, only the operating system. The operating system must be considered separate from the bundle because it is the only part of the bundle where I have to agree to an external license. Not only can I agree to it but I can also disagree. If I disagree then the EULA clearly states that I am entitled to a refund subject to manufacturers return policies but I am unable to find your return policies anywhere on your UK website.

.. continued in next post!

Scruffy

2006-12-11 08:30 AM CST

So, it all boils down to do I get a refund or should I consider looking into this further. I think I have a case since:

1. You do not offer choice of operating systems for the product, or even a 'naked' computer. If I approached you and asked for the same computer I purchased but without Windows you would either say no or charge me more.
2. You assume I will agree to the EULA by activating the OS therefore you have trampled on my rights to reject activation or the OS.
3. By activating the OS you change it's status to used, BEFORE the customer receives it.
4. There is no notification on your website that activation of the products occur before shipping, that activation puts the class of the operating system as 'Used' and that because the product is activated you cannot obtain a refund. In fact the user is unaware that any activation has taken place!
5. Nowhere on your website is there any policy on refunds.
6. You state the OS cannot be reinstalled on another computer despite the fact that we are dealing with licenses, not physical products, and licenses can be transferred.
7. You state that the computer & operating system is one complete bundle but I still have to agree to a restrictive license agreement, terms set by Microsoft and not Acer (UK). If I break this license I am in trouble with Microsoft, not Acer.
8. If I disagree with the EULA then I have wasted money, because according to you the operating system has been 'used' via your activation of the product and you refuse to refund Windows because it is 'used'.
9. You state that the OS is an integral part of the system yet I am unable to use the OS to it's full capacity unless I purchase further items from you. Integral but incomplete?
10. You state that the OS is an integral part of the system yet I have been able to remove the OS, install a rival OS and have never had a problem.
11. A media disc is not supplied. Relying on users to create a media backup is not sensible because most USERS WOULD NOT THINK THIS NECESSARY.

I await your reply before considering my options.

A copy has been faxed and one copy mailed to their West Drayton, Middlesex branch (near London). It will be interesting to see what they reply and if I get a reply from the West Drayton branch! When I hear from them I will post again although this could be a little while. I should hear from Technical Support and the mysterious Customer Service soon though. If the reply is the same as before I will move my fight to Trading Standards.

Apologies for the multiple posts.

Hey Scruffy, dont forget to mail complete copies of all your corospondance to any and all media you can think of incuding TV, newspapers, magazines, radio... As this is a hot topic you can be sure you will stir up interest in at least a few places and the more people that hear about this the better!

Dan

2006-12-11 08:56 AM CST

JN4 is absolutely right! Document everything and distribute it far and wide!

Scruffy

2006-12-11 08:59 AM CST

JN4OldSchool,

I have already thought about that.

Not too long ago I had read somewhere about someone fighting for a refund, unsure as to whether they won or not, but one of the issues that arose in the fighting was the manufacturer accusing the customer of threatening bad publicity towards the company. The customer stuck to his guns and clearly stated that under no circumstances had he threatened the company with any bad publicity and AFAIK the company backed down.

This may have just been a comment somewhere or it could have been to do with the refund from Dell. I'm not sure. I couldn't even guarantee that I could find it again!

Anyway, people will be contacted en masse once I know that Acer are going to stick to their guns.

pete_1967

2006-12-11 09:42 AM CST

Trading Standards Office, Which magazine, Watchdog (the TV-Program), computer press etc etc. You're right not to rush but to take it to the very end, I still bet if you're forced to contact Trading Standards authority, you'll get your money back pretty darn quick.

rappermas

2006-12-11 03:25 PM CST

I love what you're doing here. Scruffy, our new hero! Looks like someone is finally in the right position to slam on the OEMs big time. Don't give up this fight.

esoeding

2006-12-12 03:46 AM CST

I like this thread. To me this looks like if Acer, by activating your Windows Installation, agreed to the EULA on your behalf. Basically they have signed a contract on your behalf (agreeing to the EULA), which I would think is illegal. This is completely your, the owners, choice to accept or reject Windows EULA, and the argument that they cannot sell it anymore because they illegally cracked it open for you is flawed, because they activated it, not you. Since you had no chance to read the EULA before

you bought the laptop, I would focus on that point if I were you. Find a point within the EULA that you can't agree to. You didn't know about the point before you bought it, because the Windows EULA is not part of your contract with ACER, right? Well - so you should be able to return, and Acer should pay a fair price. Otherwise - sue them for signing your agreement without permission.

Lindy

2006-12-12 06:10 AM CST

Acer's policy is not to provide a refund for the windows operating system. This is because it is preinstalled and activated, thereby classed as used and not able to be resold with another computer. As previously stated it is a part of the product you have purchased and not a separate item, you were invoiced for the entire computer upon purchase, not for a computer and an operating system.

IANAL, but:

In my neck 'o the woods a car dealer can't sell a demo vehicle 'as new' if it has more than so many miles on it. So if there are any similar laws in your patch of forrest Acer's claim of being classed 'as used' may consitute fraud as they (I'm assuming) sold you the computer 'as new'

The Acer OEM installation of windows can be reinstalled in two ways. The first time the machine is used you are requested to create a set of recovery cds. These can be used to restore the original installation, further sets can be made at any time with the eRecovery software. You can also use the hidden partition for restoring windows to the factory installation by tapping Alt + F10 on bootup of the machine.

Sounds like their assuming that you did'nt zero sum the drive, if you did then the hidden partitions are a moot point (Lindy quickly pulls on his tinfoil beannie at the thought of hidden file systems and what they may contain!).

JN4OldSchool

2006-12-12 06:29 AM CST

I love this fight, I say keep at it, especially as you are in the UK and not USA. However, Acer will not be held accountable in the end. I thought of the car analogy also, say you buy a new Ford but want a Chevy engine instead. But this is a stupid analogy. But that progressed to push lawnmowers. When I bought my latest push Lawnmower I had the choice of a Briggs and Straton or a Tecumseh motor on it. Say they only had the B&R instock, I want a Tecumseh but I buy it anyway as I have an old Tecumseh laying around the house. Well, when push comes to shove I cant return just the motor to Lawn Master. They cant use it, it has already been sold. It is NOW used. This is the case with the laptop. Yeah, the EULA adds a twist, but in court this is how it would boil down. HOWEVER...When I picked out my lawnmower I had my choice of engines. And even if I didnt like those two choices I could have bought a snapper, lawnboy, gravelly or whatever kind of lawnmower with whatever motor on it. This is a free market, everyone freely competes. But what if Briggs & Straton go around to every manufacturer and force them to use their motors? 90% of the population will want a B&S motor, it would be foolish for the lawnmower manf. to buck B&S. B&S tells them if they offer any other choices they will jack the price of THEIR motors 15%! You bet your sweet @\$ Uncle Sam would shut this crap down in a heartbeat! Yet MS gets away with it? MS is who the fight is with, not Acer. Acer is just an unwitting pawn in this game, you cant blame them, they want to stay in business. You got to cut the head off this dragon, not clip it's fingernails! And no, you arent gonna win against MS. But the

more Scruffys that come out of the woodwork and raise their little stinks the more attention this gets. MS needs delt with and by an American court. Congress? Hello, wake up! You are now dem. controlled, lets do something about this travisty of the American system!

Lindy

2006-12-12 11:39 AM CST

MS needs delt with and by an American court.

That's already been tried, and the court let them off the hook when they should have been divested like AT&T! If we press our politicos hard enough ya might get another shot at them, but don't count your boobies before their hatched. All MS needs to do is spread enough cash around and the issue would disappear w/o seeing the light of day.

Scruffy

2006-12-20 04:17 AM CST

JN4School and Lindy: The good thing is the EU are currently looking into the bundling license because of complaints from people. The more people who put complaints forward the better, I say. If I can find the details then I will post them here so people from countries within the EU borders can forward complaints.

Anyway, over the weekend I heard back from Acer. It looks good but until I hear from them again I cannot really be sure. Basically there was nothing mentioned about not being able to refund, quoting the EULA etc, this time around. This time they just asked me for the serial number of the laptop and a copy of the invoice. This has been duly sent yesterday and again today (as they could not read the PDF due to the extension being missing).

Looks promising but until I hear from them again I am not holding my breath.

Will report back when I hear from them again.

giulix

2006-12-20 05:10 AM CST

Quote:

Originally Posted by **Scruffy**

JN4School and Lindy: The good thing is the EU are currently looking into the bundling license because of complaints from people. The more people who put complaints forward the better, I say. If I can find the details then I will post them here so people from countries within the EU borders can forward complaints.

Please do.

cypher543

2006-12-20 05:10 AM CST

That sounds very promising. It looks like they have finally given up, and are now just trying to verify that you did purchase one of their computers instead of just making a false claim. It may be a little too early to tell, but it sure looks like you've almost won. ;)

Scruffy

2006-12-20 05:41 AM CST

Have had a brief look (got lots of work on at the mo) and found this:

One of the original stories of the complaint can be found here: <http://mail.fsfeurope.org/pipermail/...ne/006084.html>

EC contacts

A complete list of EC (European Commission) details can be found here:

http://ec.europa.eu/contact/dg_en.htm

Now, I would think that the complaint should go to the Competition section which is here:

http://ec.europa.eu/comm/competition/contact_en.html

but in the original story mentioned above, Dafydd ab Iago actually sent an email to the Secretary General (or Secretariat-General) and their contact details can be found here:

http://ec.europa.eu/dgs/secretariat...s/index_en.htm

(email address is sg-web-president@ec.europa.eu - this is the SG President, or Mail on Complaints address is: sg-plaintes@ec.europa.eu)

So, anybody who is within the EU should make a complaint of somekind. Read Dafydd's email (link above) to get an idea of what to say.

Although it is currently being looked at I had the feeling that it would not get very far. My feeling was based on the original story I read but the more people who send in complaints the better as it will show them how many people are actually affected by this illegal bundling tactic.

I myself will be sending in a complaint even if I win this case due to the fact that I should not have to go through this process of trying to obtain a refund for something that I think was given to me forcefully. I think I will send one email to all three of the addresses above, noting on each that I have CC'ed it to the other departments.

giulix

2006-12-20 08:45 AM CST

I have found [this](#)... Anyone who is interested can fill it in with any relevant information. They have 1 month to respond.

jawadah

2006-12-20 11:37 PM CST

How to get rid of MS Tax.... thats not the problem with people who knows it, but it is unfair to impose your product who did'nt know. Thats the MS dictatorship. MS is imposing its product by force and

getting payed.

MS is questioning the democracy of the Computer world.

There is one more thing i dont understand, why hardware manufacturer make things which are compatible to windows why not to every OS. I think MS is also monopolizing the manufacturers too. Every thing is build for MS, WHY?

rappermas

2006-12-21 12:46 AM CST

Why can't we have a few radio buttons on the OEM web site that say "No Operating System", "Windows", and "Linux" or something like that. They can still "recommend" MS Win XP if they really want, but give people this choice. It would keep the grandmas and the hard-core techies all satisfied.

But of course, as soon as there is a choice, Microsoft will throw a tantrum.

Scruffy

2006-12-21 09:00 AM CST

At last Acer have offered me a refund. That is the good news. With goods news comes bad news. Before (or even after) reading the following please ensure you re-read my second email to them. My response will follow in a further post.

The following is the letter emailed from Acer.

Dear Acer Customer,

Following your conversation with the Acer Call Centre, please find the enclosed document that we require to be completed / signed and returned together with :

- Your Acer Computer
- Microsoft O.S. CD's only (exclude Norton Antivirus & software CD's)
- Copy of the sales invoice for your Acer product

(refund claim cannot be accepted if in excess of 30 days from the date of purchase of the Acer product).

These items will need to be returned to your local Acer Repair Centre (as indicated by the Call Centre agent) in order to allow us to remove the Windows Operating System and refund you for it. This will take no more than 3 working days from the date we receive all the above.

Please be aware that shipment of the product to our repair centre and back to you after the removal of windows will be at your own expense.

Please note that following the refund, any remaining software support on your Acer warranty will be void.

Acer will refund you in accordance with the value of the Operating System shipped with your Acer product.

XP Home = 30 Euro (approximately £20)
XP Professional = 60 Euro (approximately £40)

Should you have any questions, please do not hesitate to contact Acer and we will be glad to assist.

Kind Regards,

Acer Technical Support

Please complete the following and return a copy with your computer.

First Name:
Surname:
House Name/Number:.....
Street:
City:
Post/Zip Code:
Country:
Acer Product Serial Number:.....

I declare that as part of my conversation with my local Acer Call Centre (Case ID Number), I wish to be reimbursed in accordance with the relevant Microsoft EULA for the Windows Operating System supplied with my Acer product.

I formally authorize Acer to remove from the Hard Disk Drive the Operating System (The Hard Disk Drive will be given back to me empty); remove from the machine the Microsoft COA (Certificate Of Authenticity) label; keep the Operating System CD's.

By signing this agreement, and in full accordance with the directions given to me by Acer, I agree to the following:

- I will ship or carry the product (at my own expense) to the Acer Repair Centre closest to me to allow Acer to remove the Windows Operating System.
- I will ship together with the Acer product :
 - o Microsoft O.S. CD's only (exclude Norton Antivirus & software CD's).
 - o Copy of the sales invoice or receipt for the Acer product.
 - o This form filled in and signed.
- I shall not request any further software support from Acer.

I accept that until the items requested above are returned, I am not eligible for any refund.

I agree that this request may be given to Microsoft and agree to hold Acer harmless from any claims by third parties in the event that I have provided any false information in this request.

Scruffy

2006-12-21 09:20 AM CST

My reply:

Thank you for the returns slip. I am not sure what to make of this because I see it as either a delaying tactic or final admittance that Acer will refund the cost of Windows after all despite, what I have been told previously.

To tell you the truth I am getting sick of this. This returns slip raises even more problems and I am seeing it as a deliberate attempt at either a) stalling the refund, or b) sabotaging the refund.

Let's go over what you want and my problems with this. In the returns slip you state:

please find the enclosed document that we require to be completed / signed and returned together with :

Your Acer computer

Microsoft O.S. CD's only (exclude Norton Antivirus & software CD's)

Copy of the sales invoice for your Acer product

(refund claim cannot be accepted if in excess of 30 days from the date of purchase of the Acer product).

This is a good start except for several things:

1. You want me to return the Microsoft OS CDs. One of the original problems that I stated in my second email was that there 'WAS NO MEDIA DISC'. I was told that the user was expected to create a recovery disc and install from that. Now to obtain the refund I have to return the discs that simply do not exist!!
2. I have already sent you a copy of the invoice. Because of delaying tactics I have now exceeded the 30 days.
3. You require the machine to remove windows. I have mentioned from the second email again and again and again that I have already removed Windows and replaced it with Linux. What do you expect me to do, not agree to the EULA and then wait for possibly six months while I fight with you to get a refund? I cannot use the computer until I get the refund just in case you want to remove Windows?

The machine cannot be returned as it is my current development machine and currently carries some of my important current code I am working on.

You also state:

Acer will refund you in accordance with the value of the Operating System shipped with

your Acer product.

XP Home = 30 Euro (approximately £20)

XP Professional = 60 Euro (approximately £40)

The problem with this: Which version of XP do I have? XP Media Centre Edition! So what is that, £80?

I'm sorry but this is not good enough. First you do not issue refunds because the OS has been activated and now you do but I have to return the product for the removal of the OS when I clearly stated several times that I had already removed it. Secondly, you request my invoice which is duly emailed and then miraculously, when you now do refund the cost of Windows, a refund cannot be excepted if the claim is in excess of 30 days of the purchase. It is highly suspicious as I now surpass that.

As stated, I am assuming that this whole process is a deliberate act to force me to accept the cost of the Windows whether I want it or not, or to ensure that I am further inconvenienced all because you failed to offer any kind of choice to customers. Because of this I am left with no choice but to ensure this is taken further therefore over the Christmas holidays I will be:

1. Contacting and forwarding all information to Trading Standards. I will attempt to get them to look further into this issue and also try to persuade them to look further into the Acer/Microsoft licensing agreement to see if there are deliberate clauses in their stopping you from offering other operating systems.
2. I will be contacting the various IT news sites to see if they are interested in picking up the story. I have deliberately failed to do this for professional reasons but some of the information that Acer has given as to why you cannot refund for Windows is interesting and also possibly illegal. I think everybody should know about the excuses you give.
3. I will be making all of the information available to Linux Forums, news sites and most of all the users, to ensure that they are full aware of Acers attitude towards them as you will do your best to make money for Microsoft whilst basically ripping them off.
4. Contacting the European Commission Secretary General & various other departments to put my story in with the other complaints about the illegal bundling of computers and Microsoft Windows, and the deliberate attempts of the computer manufacturers to block refunding the cost of Windows.

This will be done over the Christmas holidays. I will also be taking legal advice.

Up to this point I feel that I have been fair in arguing my case but it appears that you will make every attempt to not issue a refund or try to inconvenience me as much as possible when you finally agree to refund me. Removing Windows from the machine and removing the COA proves nothing as these can be copied, and the COA has been proved not to be binding anyway. It is the Windows license that is the key issue here and Microsoft are in a position to see if my computer or any other computer is used with this Windows license. If they are incapable of doing this then please explain to me what all of the WGA activation issues are? These are Microsofts way of proving the licenses are valid.

pete_1967

2006-12-21 10:13 AM CST

One other place you should contact is BBC1's Watchdog, they might be interested in this.

It's amazing what they think they can get away with.

Dan

2006-12-21 02:00 PM CST

Scruffy... Remind me never to get into a hair-pull with you! :eek

Get after 'em, guy! :p

Dan

mndar

2006-12-21 07:57 PM CST

Damn Scruffy, you are really good at this!!
How do you manage to come up with such responses?
Responses that any attorney would be proud of !!!

Linux The Great

2006-12-21 08:23 PM CST

The best part of this is watching a company piss off a customer.

wmc1369

2006-12-21 09:03 PM CST

My dad was about to buy a new Acer laptop for this witch he's married to until I sent him a link to read this forum. Though (sadly) he's still a Windows user, he was so disgusted with Acer's customer service that he bought an HP instead.

jawadah

2006-12-21 10:01 PM CST

Scruffy..... You are an advocate by birth

two thumbs for you. Keep it up.

rappermas

2006-12-22 12:12 AM CST

I've been planning to buy a MacBook Pro all along anyway. Nothing is slicker.

All that I need to do is to tell everyone to stay away from Acer--avoid them like the plague. If an OEM can't give the consumers what they want--it shouldn't even be in business.

The things they have tried to pull on you, Scruffy, are simply lamentable. The ways in which you have countered are brilliant.

Wayne

2006-12-22 12:16 AM CST

Quote:

Originally Posted by **rappermas**

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The things they have tried to pull on you, Scruffy, are simply lamentable. The ways in which you have countered are brilliant.

I think that's a great way to go. Getting a windows free desktop machine is pretty easy, even if you have to build it yourself, but a good laptop with no OS or with a refund for the M\$ tax looks like a real PITA to find. Linux on the desktop and OS X on the laptop seems a great way to compute!

Wayne

Scruffy

2006-12-22 07:10 AM CST

My emails may look good but they take ages to write. When I first write the reply I am a bit hot-headed, then I read what I have written and make changes. I will then leave the email for a good few hours, considering the problem in my mind and then change the original email until I am satisfied with it. Usually, a long email will take about 4 hours to write and a short email will take about 1-2 hours.

I have had a reply to my email from yesterday. This initially sounds good but still presents a problem. For now I have indicated that I will give them the benefit of the doubt and will delay any action until after Christmas. Being the good little alien that I am my return email is probing them. I have told them time and time again that Windows has been removed from the notebook but it appears that they want me to send it to them! I'll see what their reply is.

Their email:

Regarding your enquiry,

In response to customers wishing to be refunded for the windows installation Acer have very recently put together the procedure you have been supplied and are now happy to do this for you. The machine was not supplied with recovery cds, if you had created them these are the disks we would need returned with the computer.

Media Centre Edition will be treated as XP Professional and will be refunded 60 Euro. Should we book the machine in for a windows removal?

and my reply:

It is great that you have introduced a new policy where you will at least consider the removal and refund of/for Windows. This is a great step forward for a computer company and I hope that other companies follow suit. If this policy is for real then it will be considered a big step.

Unfortunately this still leaves me with a problem. You are asking whether I should book my computer in for Windows removal despite me insisting several times that Windows has already been removed. It is now c.40 days since I have received the notebook, at least 21/28 days since I have requested a refund for Windows, and in all this time you cannot expect me to still have Windows on it, in a disused state since the EULA has not been agreed upon. I have clearly stated that Windows has already been replaced with Linux so your new policy causes me a problem. Also, because of the work on the notebook I am unable to send it into you even for checking. Please advise how this situation can be handled. As far as I am concerned the license either needs to be retired or Microsoft need to ensure that the license never appears against my notebook's serial number again (otherwise it will result in legal action against me), and Microsoft are/should be in a position to enforce this as is amply demonstrated in their Windows Genuine Advantage campaign (even if it is ill thought out and seriously flawed IMHO).

I will withhold contacting Trading Standards etc until I hear from you. My work breaks up today so I will reconsider my options on 2nd January, when I return.

Finally, if this policy is to be truly considered as a serious effort of appreciation towards the Linux/Unix community then I hope that the mention of the possibility of a refund, together with any rules/restrictions to obtaining this refund, will be available on the Acer website in an easily accessed place, ie. the FAQs page springs to mind. Hiding this sort of information shows ill intentions and can be a breeding ground for future distrust.

Ok, over to Acer!

bob

2006-12-22 07:21 AM CST

Amazing progress! You've actually caused a major corporation to create a policy which should assist many people in the future. If I were a betting man, I'd bet that their next message would be that they'd need to verify the removal of Windows by having you ship the machine to them (at your expense) and they would then take a reasonable time (6-8 weeks) to verify and return it to you (at your expense). Hope I'm wrong and you receive a long-overdue Xmas present from Acer.

cypher543

2006-12-22 08:47 AM CST

+1 for the Linux community! :p

Great work there, Scruffy!

linux_paul

2006-12-22 09:19 AM CST

The worst part is they don't know what all the fuss is about; "Why would someone *want* to get rid of Windows? What good is a computer without it?"

Amen Scruffy!!

jinx099

2006-12-22 11:48 AM CST

Awesome, I hope you get your deserved refund!

rappermas

2006-12-22 01:12 PM CST

Wow, you're almost there. Why can't you just image the drive, wipe it, and send the computer in? You know, install something like Gentoo so that they really have to scratch their heads :D

Regardless, you have done a great job. One person, with the right tools and moves, can fight the big corporations.

Fedoras off to you!

Iron_Mike

2006-12-22 01:24 PM CST

I have to agree with Bob on this one. The only possible way for them to verify that you no longer have the Windows OS on the machine is for you to ship it back for a look. Did you happen to get "On Site" support as part of the warranty ?? They might be able to send a tech out to verify it on site as to the OS that is currently installed.

But it is truly amazing how far this has progressed, keep chipping away at 'em....

Dan

2006-12-22 02:03 PM CST

Bob and Mike have a point. I'd want you to return it too. So... Ask them if there is a trusted third party, (local repair shop) that is acceptable to both of you, who can confirm deletion.

Dan

pete_1967

2006-12-22 02:05 PM CST

One question is, they tell you to send it back to them **at your own expense**. That'll cost you about the same as they are ready to reimburse you, plus lost productivity time when they have it.

I wouldn't give up to that deal because it is their questionable tactic to force sell the OS to you in the first place, therefore they should have the responsibility to clean your system from it, cost included.

mndar

2006-12-23 07:01 AM CST

I don't think Acer can be completely sure that you are not using Windows.
What if one makes an image of the OS partition before sending it to them. When they send back the OS less notebook, one could restore the OS.
The only thing the user will have to take care is not putting the windows os on the internet !

nick.stumpos

2006-12-23 07:27 AM CST

several thoughts, perhaps ask them if it is possible for you to ship only the harddrive, which would cut your shipping costs dramatically, also maybe it is possible for them to verify with microsoft that your license of XP was never activated. Not sure exactly how the microsoft activation system works so this might not be a possibility

cypher543

2006-12-23 08:01 AM CST

Quote:

maybe it is possible for them to verify with microsoft that your license of XP was never activated

I think Acer already activated it before shipping the computer, which is one problem Scruffy pointed out. I could be wrong though. I'm too lazy to go back a few pages and read the email. :p

Dan

2006-12-23 10:34 AM CST

Hmmm. The more I think about this, the more I think it's a shenanigan! All Acer has to do, to kill your license, is fire a message off to Microsoft, that declares your copy of Windows (Which they activated, and therefore should have records of) to be pirated if used, then give you the refund.

At that point, it's a hairpull between you and Microsoft.

This is just more bloody games! Nail 'em, Scruffy! :mad:

Dan

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