

Released under FOI

From: Elliott, Grant
To: [Kuti, Adrian \(akuti@claytonutz.com\)](mailto:akuti@claytonutz.com); blloyd@claytonutz.com
Cc: [Wang, David](#); [Choucair, Molly](#)
Subject: Apple - Media release [SEC=UNCLASSIFIED]
Date: Wednesday, 18 December 2013 11:53:00 PM
Attachments: [media - news release - NR 306 13.pdf](#)

Dear Adrian,

I have now been advised that this Media Release has been released by the Commission.

Kind regards

Grant Elliott
Director | Enforcement Group - NSW
Australian Competition & Consumer Commission
Level 20 | 175 Pitt Street Sydney 2000 | HYPERLINK "<http://www.accc.gov.au>"<http://www.accc.gov.au>
T: +61 2 9230 3878
P --- Please consider the environment before printing this email

IMPORTANT: This email from the Australian Competition and Consumer Commission (ACCC), and any attachments to it, contains information that is confidential and may also be the subject of legal, professional or other privilege. If you are not the intended recipient, you must not review, copy, disseminate, disclose to others or take action in reliance on, any material contained within this email. If you have received this email in error, please let the ACCC know by reply email to the sender informing them of the mistake and delete all copies from your computer system. For the purposes of the Spam Act 2003, this email is authorised by the ACCC HYPERLINK "<http://www.accc.gov.au>"www.accc.gov.au



Australian
Competition &
Consumer
Commission

NEWS RELEASE

GPO Box 3131 Canberra ACT 2601
23 Marcus Clarke Street Canberra ACT
tel. (02) 6243 1111 fax (02) 6243 1199
www.accc.gov.au

APPLE AUSTRALIA GIVES UNDERTAKING TO ACCC TO IMPROVE ITS CONSUMER GUARANTEES POLICIES AND PRACTICES

The Australian Competition and Consumer Commission has accepted a court enforceable undertaking from Apple Pty Limited (Apple) following an investigation into Apple's consumer guarantees policies and practices, and representations about consumers' rights under the Australian Consumer Law (ACL).

The ACCC was concerned that Apple had made a number of false or misleading representations to a number of consumers regarding their consumer guarantee rights, including that Apple was not required to provide a refund, replacement or repair to consumers in circumstances where these remedies were required by the consumer guarantees in the ACL.

The ACCC was concerned that on occasions these representations may have arisen from Apple staff and representatives misapplying Apple's policies, including its 14 day return policy and its 12 month limited manufacturer's warranty. The ACCC was also concerned that Apple staff were directing consumers with faulty non-Apple manufactured products purchased from Apple, to the manufacturer for resolution of the consumer's concerns.

Apple has since acknowledged the ACCC's concerns, and that some of these representations to consumers may have contravened the ACL. Apple has worked with the ACCC to resolve these concerns, and has now committed to taking a number of compliance measures.

"The ACCC was concerned that Apple was applying its own warranties and refund policies effectively to the exclusion of the consumer guarantees contained in the Australian Consumer Law," ACCC Chairman Rod Sims said.

"This undertaking serves as an important reminder to businesses that while voluntary or express warranties can provide services in addition to the consumer guarantee rights of the ACL, they cannot replace or remove those ACL guarantee rights."

In the undertaking Apple has publicly acknowledged that, without limiting consumers' rights, Apple will provide its own remedies equivalent to those remedies in the consumer guarantee provisions of the ACL at any time within 24 months of the date of purchase.

To avoid any doubt, Apple has also acknowledged that the Australian Consumer Law may provide for remedies beyond 24 months for a number of its products.

"The ACL consumer guarantees have no set expiry date. The guarantees apply for the amount of time that it is reasonable to expect given the cost and quality of the item or any representations made about the item," Mr Sims said.

In addition, the undertaking requires Apple to:

- not make representations to consumers which the ACCC was concerned were contrary to the ACL;

Released under FOI

- continue to offer a consumer redress program in which consumers potentially affected by the alleged conduct can go to Apple to have their claims re-assessed by Apple in accordance with the ACL;
- continue to implement an Apple program to improve ACL compliance which includes improved training for Apple sales staff and management staff and all Apple call centre representatives who have contact with Australian consumers;
- continue to monitor and review its ACL compliance going forward to ensure the conduct of concern to the ACCC does not occur again;
- maintain a webpage aimed at providing information and clarifying the differences between the coverage provided by the ACL and Apple's voluntary limited manufacturer's warranty; and
- continue to make available in its retail stores in Australia copies of the ACCC's "*Repair, Replace, Refund*" brochure.

The ACL came into effect on 1 January 2011 and provides consumers with basic rights in relation to consumer goods sold in Australia. These basic rights operate in addition to any express or voluntary warranties offered by businesses and cannot be excluded by a business' terms and conditions of sale.

Products affected by Apple's policies and practices included:

- Apple iPods, iPhones, iPads, MacBooks, iMacs and peripherals;
- non-Apple manufactured products such as headphones and printers; and
- products and software available for purchase on Apple's iTunes and App stores.

The undertaking is available at www.accc.gov.au

Media inquiries

ACCC Media 1300 138 917 or 0408 995 408

General inquiries

Infocentre: 1300 302 502

MR 306/13

18 December 2013