

# MEDIA RELEASE

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## COMPUTER SAYS NO: FORMAL COMPLAINT TO ACCC AFTER DELL GETS IT WRONG ON CONSUMER REFUND RIGHTS

Consumer Action Law Centre has made a formal complaint to the Australian Competition and Consumer Commission after its own CEO was given the run-around by Dell Computer Pty Ltd on her right to a refund for software that never worked.

The complaint alleges that Dell is engaging in misleading and deceptive conduct by telling customers that they don't have the right to a refund for faulty products and is using contracts with unfair terms that seek to limit customers' fixed refund rights under Australian consumer law – which would be clear breaches of the *Trade Practices Act*.

Carolyn Bond, co-CEO of the Centre, said the complaint was made because if even a highly experienced consumer such as herself with excellent knowledge of her consumer statutory rights could not get Dell to comply with its legal obligations, she was extremely worried about how the company was treating other Australian consumers.

Ms Bond became aware of Dell's behaviour as a result of purchasing a laptop computer and 'Fail Safe' software from the company earlier this year. The 'Fail Safe' software did not work and, despite numerous efforts to install it, neither Ms Bond nor Dell's own technical support people were able to resolve the issue and she was referred to Customer Support for a refund.

"Unfortunately, when I contacted Dell's customer service department they refused to provide a refund for the software, despite the fact it didn't work, because it was more than three months since I'd purchased it. I contacted Dell's head office in Sydney to complain but was again advised that the Terms and Conditions of the contract didn't allow for a refund after three months."

"I explained to them that the software had never worked and that they were breaching the *Trade Practices Act* by refusing to refund my money because the software was not fit for purpose. However, they insisted they did not have to refund the purchase price."

Ms Bond said that when she reviewed Dell's Terms and Conditions she could not find any reference to a three month limit on refunds. Worse, to her surprise she found other clauses that seemed to imply they excluded or even replaced the customer's mandatory statutory rights in relation to faulty products.

"It's highly concerning that a company of Dell's size and reputation is using these sorts of unfair contract terms which we fear are likely to mislead thousands of consumers into thinking they have signed away their legal rights to a refund for defective purchases."

"Who knows how many consumers have had a similar experience – either with faulty software or problems with other products – only to be told by Dell that they had no right to a refund and, not knowing any better, have just accepted it and given up."

"Dell and any other companies out there who are undermining consumer legal rights to refunds need to understand that their behaviour may very likely be breaching Australian law, and consumers should be aware that they do have the right to demand refunds from the seller for faulty goods, even if contract terms attempt to tell them otherwise."

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