

## Why Software Licenses could be deemed Defective!

Our observation is that some of the individual condition clauses (especially in Microsoft Licenses) can be shown to be defective which we believe makes them unenforceable!

Our contention is that it is difficult for anyone anywhere to comply with many of the licenses, hence our question/challenge - what exactly are you complying with?

People never read the shrink-wrapped licensing in the 90's, and they also don't read the click (Accept Here) version today.

When it comes to both Retail/OEM and PUR/VLA wording we know that in most instances, the licenses for OEM and PUR/VLA have been quickly and quietly accepted along with on-going changes.

In addition, full visibility generally has not happened in the right circles of the significance of the clause by clause conditions, either original or altered.

For many customers you need to check the Volume Licensing Agreement (equivalent to a boxed EULA) and Product use Rights to see what they say, as they also can be in contradiction.

## See for Yourself

Here are some key examples, start with the Operating System/s and the applications that Microsoft offers;

To understand more about Volume Licensing Agreements (VLA's) - Note the clauses that states that the PUR/VLA can be withdrawn at any time!

- VLA <http://www.microsoft.com/licensing/about-licensing/product-licensing.aspx>
- Online version of the current suite of Microsoft VLA's <http://www.microsoft.com/licensing/pur/products.aspx>

To understand more about Product Use Rights (PUR)

- PUR <http://www.microsoft.com/licensing/about-licensing/product-licensing.aspx#tab=1>
- Product list Archive of VLA's <http://www.microsoft.com/licensing/about-licensing/product-licensing.aspx#tab=2>
- Product Use Topics <http://www.microsoft.com/licensing/about-licensing/product-licensing.aspx#tab=3>
- Product Use License Search Engine (multi language) <http://www.microsoftvolumelicensing.com/default.aspx>
- Product Use Document Search Engine (multi language) <http://www.microsoftvolumelicensing.com/DocumentSearch.aspx>
- Product Use Rights Explained <http://www.microsoft.com/downloads/en/details.aspx?FamilyID=7e4662a0-8509-4a1c-a60f-230d819ef564&displaylang=en>

# Don't Just Take Our Word – Read the T's and C's

Don't just take our word for it. Read the Ts and Cs' above and then make a judgment call for yourself.

If that doesn't scare you then we can let you look at about 400 separate licenses, all different, that are all over the place when it comes to what you are obligated to do.

We guarantee that your head will spin!

## Did You Know?

Did you know that terms and conditions of software licenses;

- place a legal obligation on you for not only software but also fonts and images?
- can be altered, amended, or even withdrawn at any time?
- place a legal obligation on you for third party licenses, which often you can't see?
- place an obligation on you to retain prior upgrades and downgrade versions?
- in some instances make provision for vendor audits at your site?
- are very rarely read and understood by staff?
- require proof of purchase to verify license ownership, often over many years?
- are often accepted by personnel who have no authority to accept the legal terms and conditions of these licenses?

## Legal Mumbo Jumbo

The real issue with software licenses for most organisations is that they are full of legal mumbo jumbo, often written by legal personnel who have no real world appreciation of what it takes in the end user community in terms of complying with the terms and conditions.

If they had to come and work in your business for a week and conduct software compliance audits under the terms that you face as the licensee, then we are certain they would collapse in a blubbering mess, as these licenses are VERY DIFFICULT, IF NOT IMPOSSIBLE to comply with!

## Why do we believe that some licenses are defective?

Why is that we consider that Software Licenses could be deemed Defective?

How many of you know;

- that fonts are subject to licensing conditions, just like software?
- where these fonts are installed?
- what applications these fonts are "tied to"?
- that images are subject to licensing conditions?
- there are restrictions on what you can do with these images?
- there are third party software licenses that apply?
- where these third party software license conditions are stored?
- what the terms and conditions are for these third party software applications?
- what the third party software applications are and what functions they perform?

## Our spin on the above observations

Based on what we have seen from Microsoft licenses alone, we believe that there are good grounds to consider that the licenses that are being offered to you, and you are committing to, may be defective as very few can answer any of the above questions.

## If.....then.....how can you comply?

If you don't know what is being installed to your systems, what is contained in terms of the conditions of the licenses especially considering the very vague nature of the wording surrounding the above questions, then how on earth can you ever be expected to comply with their terms and conditions?

## Not Sure What is On Your Systems?

***Failing to recognize and act on what you discover during an audit places you at risk!***

***If you wish to Discover what is actually on your systems contact us at [pcprofile@pcprofile.com](mailto:pcprofile@pcprofile.com) today.***

***We will send you a FREE 1 page Acceptable Use Policy and Discovery Snapshot Audit which runs from USB, no installation, no training required and the User Manual is 1 page. Did we mention it was free?***

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**Rob Harmer is the owner of PCProfile and specialises in providing practical and relevant advice on Technology issues that are relevant for managing your business. For the last 19 years he has been a champion for anti-piracy advice and activities assisting businesses with keeping their systems compliant in the face of piracy of software. During the 1998 to 2000 years he played an active role with pragmatic advice for Year 2000 issues worldwide for PCs and managed the successful transition for a major high profile Year 2000 activity (covering 2 million lines of code and substantial legacy assets) at a defence site in Australia.**

**He has been running his small business PCProfile continuously since 1991 and has won prestigious IT awards in SA in 1994 and 1999 for IT excellence. Rob has published numerous articles on overseas audit community web sites and has been a contributor to the National Accountant IT section as well as other publications overseas. He has occupied various roles as a Senior Executive Manager with almost 40 years experience in computing at various levels, with significant achievements in all aspects of business management, finance accounting and commercial agreements, process mapping, risk management, staff development, coaching and training managers, organisational and cultural change, and business process improvements.**

**Presenter Bio can be seen at [www.pcprofile.com/resume.htm](http://www.pcprofile.com/resume.htm)**

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