

Software - Stay Legal

Risks

Ultimately failing to purchase and manage your software correctly can leave you open to a variety of risks commercially and legally:

- Infiltration of Malware i.e. viruses, spyware, adware, key-logging, phishing and Trojans, this can lead to data loss and network failures.
- System attacks; denial of services.
- Leaking of confidential information.
- Identity theft.
- Software compatibility failure.
- Unsupported software.
- Wasted company time.
- Potential fines.
- Reputation of your company.
- Legal action from software publishers for unlicensed software.

For further information please see our website
www.fastiis.org/responsibilitiesandrisk.

Help is at hand

Through our wide and varied membership we are able to offer a plethora of insight and experience and we have helped guide a number of businesses towards correctly sourcing and managing their software.

For further information on the successes of other companies and additional information please visit our website
www.fastiis.org/samcasestudiesat.

Useful resources

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| FAST: | www.fastiis.org |
| IPO: | www.ipo.gov.uk |
| Consumer Direct: | www.consumerdirect.gov.uk |
| Local Trading Standards: | www.tradingstandards.gov.uk |



About FAST

The Federation Against Software Theft was formed in 1984. It is a not-for-profit organisation limited by guarantee and wholly owned by its members. It works on many fronts to promote the legitimate use of software and protect its members' rights through education, enforcement, policy and promoting standards and best practice in business.



- We are working in conjunction with your local Trading Standards Office in order to assist local businesses in relation to the legitimate use of software.
- In our experience we have found that there is a lack of understanding by businesses on the legal requirements and how this impacts on purchasing software.
- We want to provide relevant and up to date guidance for businesses to enable informed decisions when choosing software; what they buy and how they buy it.
- We hope that this resource will assist organisations to source the software for their business.

How to buy

Depending on the size of the organisation, there are a variety of options available when sourcing the appropriate software that your business requires.

We want to help businesses understand the dangers around how your organisation may choose to source its choice of software and the potential risks involved.

The consequences of making the wrong choices can be very significant.

High street

There are a variety of retailers on the high street that offer business software for your organisation.

Many are linked with most major software publishers who can provide peace of mind as to the legitimacy of the software.

If you have a particular software product in mind you may wish to contact the software publisher directly and they will be able to put you in touch with a recommended reseller of its product.

Shopping online

The internet provides a wide forum of potential suppliers that can offer great deals. However, an element of caution needs to be applied when looking to purchase online.

Ensure that the online shop is a reputable business providing secure purchasing online. Helpful guidance may be found at www.consumerdirect.gov.uk.

In hunting down the best deal, consider comparison websites which may save your organisation time and money.

We recommend that you always ask questions of the online provider to ensure that you are confident that the software you are buying is suitable for your (commercial) use.

Resellers

Depending on the size of your organisation and the type of software required, you may choose to source the software through commercial channels which retail directly to businesses.

For a comprehensive list of distributors and resellers that may be able to assist, please visit our website at www.fastiis.org/distiandresellers.

Auction sites

You may go looking for a bargain on an auction site but in reality it may end up costing more in the long run.

However, an element of caution needs to be applied when looking to purchase online

TOP TIPS

- Remember if it's too good to be true it generally is – although you can pick up bargains through the wonders of the open online market you should be wary.
- Familiarise yourself with the auction site and its processes and general format for sales.
- Research the seller – use any tools available to check out their sales history or any comments left by those who have used them in the past.
- Cross reference the products that they are offering for sale with the information available from the software publishers. Most have comprehensive details of the products and methods for sale online.
- For further information and general guidance to purchasing online please visit your local trading standards website www.tradingstandards.gov.uk.



Download sites and Peer 2 Peer networks

There are some publishers who distribute product via download through third parties. There are also some publishers that allow their products to be shared; HOWEVER, this is specific to each publisher by product, usage and licence. It is potentially extremely dangerous to your network to use downloads from sites that are NOT authorised by the publisher.

Peer 2 Peer (P2P)

P2P technology is not illegal but be wary of the programs offered in terms of their legitimacy and advertised functionality.

Accessing software via download from the internet is the latest way to source your software. It can be a fast and easy way to access products. However, it is essential that you only download from reputable sources and be aware that not all content shared through P2P is legal. It may also contain added extras that leave your network susceptible to a variety of risks including:

- Infiltration of Malware i.e. viruses, spyware, adware, key-logging, phishing and Trojans.
- System attacks; denial of services.
- Leaking of confidential information.
- Data theft.
- Identity theft.

It is potentially extremely dangerous to your network to use downloads from sites that are NOT authorised by the publisher

So unfortunately for the buyer there is no way to be completely sure about the purchase unless you purchase from an authorised distributor

Types of products to be aware of

Counterfeit goods - these can vary in the level of sophistication from merely a copied CD, containing the software and trade mark through to the high level counterfeit, where great care is taken by counterfeiters to replicate legitimate products and dupe unwitting purchasers. The production, sale and use of these products is illegal and may lead to legal action for trademark and/or copyright infringements.

Fake or copied software varies dramatically in its form and by its distribution. So unfortunately for the buyer there is no way to be completely sure about the purchase unless you purchase from an authorised distributor. For further guidance please visit our website www.fastiis.org/howtospotafake or for specific guidance please contact the software publisher directly.

Mis-licensed products - items not intended for commercial use.

Most software publishers offer a variety of solutions for customers both consumer and business. The reason for the variation in price is to reflect the functionality or intended use by the product. Purchasing the wrong software under the wrong license may lead to your software being deemed unlicensed and may place your business in an uncomfortable position if audited. Always check with the distributor that you are entitled to use the software in a business capacity, you may end up paying twice for your software.

Trial Software/Beta Versions - it may be a good way to get a look at the latest offerings but remember it is not a fully licensed product and continued use outside the prescribed usage agreement/licence will lead to your company relying on unlicensed software.

Report piracy

If you are concerned about a seller or products that you have purchased please feel free to contact us or make a report on our website at www.fastiis.org/reportpiracy.



Legal bit

Perhaps the strongest reason why you should be aware of how you buy and what you buy is because there can be serious legal repercussions for failing to have legal software.

Copyright Law

- Computer Software is defined as a literary work. Infringement of copyright is NOT just a civil legal issue.
- You do NOT have to sell copied software to breach the Law.
- Directors of companies can be personally charged and risk up to 10 years imprisonment.

Copyright Designs and Patents Act 1988

The Copyright, Designs and Patents Act 1988 states:

The owner of the copyright has the exclusive right to copy the work (Section 16). That means it is illegal to copy software without the copyright owner's permission. With regard to software, the copyright owner is the software developer / publisher. Breaking the law could have serious consequences for you and the organisation you work for, threatening both your own and your employer's reputation and future prosperity:

- The legal penalties include unlimited fines and up to ten years in prison following the Copyright, etc and Trade Marks (Offences and Enforcement) Act 2002.
- Personally, you could lose your reputation, promotion prospects or even your job.
- No organisation would condone or defend either illegal copying or the use of unauthorised software.
- Your organisation and directors could face a criminal investigation.

Major Points

A software licensee never takes ownership of the copyright in the software; he merely purchases a licence and the right to use the protected software under the terms and conditions set out by the copyright owner and thus the law:

- Copyright exists in a work from the moment it is recorded.
- Remedies for civil copyright infringement may include damages to compensate the copyright owner for damage caused to his business.
- Criminal penalties can include unlimited fines and up to ten years in prison.
- If an organisation is using illegal copies of software the organisation may face not only a civil suit, but corporate officers may face criminal liability.
- No one is exempt from copyright law. All individuals, organisations and government agencies are subject to the law.
- Ignorance of the law does not excuse infringement.

Breaking the law could have serious consequences for you and the organisation you work for, threatening both your own and your employer's reputation and future prosperity

TOP TIPS - 4 STEPS TO EFFECTIVE SOFTWARE LICENCE COMPLIANCE & MANAGEMENT

Understand your risk

1. Firstly review the way in which software comes into the organisation

Consider the following;

- Who authorises the purchase?
- How the licensing arrangements ("licences") are recorded?
- Who carries out the installation of the software?
- How these processes are communicated to the employees/users?

Key Questions to ask of your organisation:

- Do you have a record of the licences for all the software installed on your computers?
- Do you have an up-to-date, accurate inventory of all software in use in your organisation?
- Have you recently conducted a software audit and reconciled the findings with the number of licences held to ensure compliance with the licence terms?
- Are there policies and processes in place for controlling the purchase and use of software?
- Do users sign to confirm that they have been made aware of, acknowledge and understand such policies and processes?

If you answer no to any of the above, you may be at risk and need to perform a software audit to determine the size of the problem. It is then essential to take appropriate steps to ensure that you are compliant, for example, ensuring you have sufficient licenses for software installations, or the licence is sufficient for the number using/accessing the software.

2. Achieve licence compliance

Software must be installed and used in accordance with the software publisher's licence terms:

- You first need to collect and record all evidence of licences and entitlements to use software in a secure place, so you can be confident that you have the right to use.
- Perform an inventory of your computers, software and users.

- Match the number of licences to the installed software and ensure that the software is being used in accordance with the terms and conditions of the licence. As on occasions, licences may limit the number of users accessing software.
- If there is a miss-match take appropriate steps to achieve licence compliance by procuring additional licences; redeploying unused licences (if permitted) or reducing the number of users.

3. Maintain licence compliance

Now you have a baseline, start to implement processes and policies that make it easy to control and manage your software assets in the future:

- Make your directors, IT staff and users aware of the importance of software licence compliance, and remind them periodically.
- Review your IT policies to ensure they promote good software management practices and ensure that everyone signs up to them.
- Review and improve your requisition, procurement, use and asset retirement practices.
- Make sure that everyone is aware of your procedures that back up your policies, that they are supported by your company directors and that they are enforced when appropriate.

4. Optimise your software licences

Now you are in control, plan for the future:

- Implement processes to collect and reuse software instead of buying additional licences, as long as this is in accordance with the terms of the licence.
- Review your licence procurement and maintenance contracts on a regular basis in line with changed patterns of software use and different computer hardware setups.
- Ensure any internal software developers for the business understand the licence options and costs when developing new business applications. This will help you make better decisions about the costs and benefits of potential options.