

# Apple fined \$2.29 mln over Australian '4G' iPad

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This file photo shows customers lining up outside an Apple store in Sydney, in March. Apple fans in Australia became the first in the world to get their hands on the latest iPad as hundreds of gadget lovers laid siege to the company's flagship Sydney store. AFP PHOTO / Mark Gunter

Apple was Thursday fined Aus\$2.25 million (US\$2.29 million) for "deliberately" misleading Australian consumers about the local 4G capability of its latest iPad.

The tech giant was also ordered to pay Aus\$300,000 in costs by the Federal Court in a case brought by regulators, who said the penalty sent a message to global companies that there were consequences for breaching the law.

Justice Mordy Bromberg found that Apple misled people with claims in its advertising implying that the "iPad with WiFi + 4G" could connect

with fourth generation cellular networks in Australia, when it could not.

The judgment ruled that the company engaged in conduct liable to mislead the public and contravened Australian consumer law.

"The conduct concerned was deliberate and very serious," Bromberg said.

"It exposed a significant proportion of Australian consumers of tablet devices to a misleading representation."

The Australian Competition and Consumer Commission (ACCC), which initiated the proceedings, said it was delighted with the outcome.

"The \$2.25 million penalty reflects the seriousness of a company the size of Apple refusing to change its advertising when it has been put on notice that it is likely to be misleading consumers," chairman Rod Sims said.

"This decision should act as a renewed warning that the ACCC will continue to take action against traders who take risks in their advertising, regardless of their size."

Apple offered in March to refund customers who felt they had been duped, and to publish a clarification about the popular tablet's capabilities.

The product is now advertised outside North America as "Wi-Fi + Cellular" -- a change that came into effect on May 12 -- with a clear caveat on its Australian site that "it is not compatible with current Australian 4G LTE and WiMax networks."

The iPad's 4G capabilities are supported by some networks in the US

and Canada.

Matthew Rimmer, an expert in intellectual property at the Australian National University, said Apple had been "careless".

"It shows some of the dangers involved in overhyping products and sets a very important precedent," he said, adding that other countries would take note of the outcome.



Graphic on Apple's 4G claims for its new iPad in Australia, which led to a \$2.29 mln fine on Thursday for misleading consumers

Asked if it could open the floodgates to similar law suits elsewhere, he said: "It all depends on the nature of consumer regulations in each country."

Earlier this month, Apple agreed to settle the case with the ACCC.

But Bromberg delayed an official ruling until he had details on how many iPads had been sold and were returned under the refund offer and

further information on Apple's financial position.

He said Thursday the risk of contravening Australian consumer law would have been "reasonably obvious" to Apple.

"In that context, and in the absence of any other explanation, the facts to which I have just referred suggest that Apple's desire for global uniformity was given a greater priority than the need to ensure compliance with the Australian consumer law," he said.

"Conduct of that kind is serious and unacceptable."

The iPad was the world's best-selling tablet in the first three months of 2012, outgunning its Android-powered rivals, with sales more than doubling from a year earlier to send Apple's profits soaring.

Apple was not immediately available for comment.

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