

Australia takes Apple to court over 'refusing service' claims

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Australia's consumer watchdog has taken Apple to court for violating laws by allegedly refusing to look at or repair some iPads and iPhones previously serviced by a third party

Apple was Thursday taken to court by Australia's consumer watchdog for violating laws by allegedly refusing to look at or repair some iPads and iPhones previously serviced by a third party.

The tech giant "made false, misleading, or deceptive representations about consumers' rights under the Australian Consumer Law," the Australian Competition and Consumer Commission (ACCC) charged.

The proceedings, against Apple Pty Limited and its US-based parent Apple Inc, were brought on behalf of 275 consumers.

Under Australian law, each breach can attract a fine of up to Aus\$1.1 million (US\$830 million), although it is up to the court to determine the size of the penalty.

The case followed an ACCC investigation into reports users who had an "Error 53" that disabled their iPads or iPhones after updating their operating systems were "routinely refused" by Apple to have their devices looked at or serviced.

These customers previously had their devices serviced by a third-party, "even where that repair was unrelated to the fault", the government body said.

"Consumer guarantee rights under the Australian Consumer Law exist independently of any manufacturer's warranty and are not extinguished simply because a consumer has goods repaired by a third party," ACCC chairman Rod Sims said in a statement.

He said to deny those rights had an impact beyond the affected consumers.

"(It) can dissuade other customers from making informed choices about their repair options including where they may be offered at lower cost than the manufacturer."

Apple in Australia had no immediate response.

Error 53

The legal action is likely to be closely watched globally, amid concerns raised by consumer advocates about Error 53, which they claim makes devices unworkable if they were repaired by a third-party.

Apple describes the error as appearing "when a device fails a security test", and released an operating system update to fix the issue.

"This test was designed to check whether Touch ID (fingerprint-recognition feature) works properly before the device leaves the factory, and wasn't intended to affect customers," the company said on its website.

Sims said companies must remember that consumer rights extended to software or software updates on goods they sell.

"Faults with software or software updates may entitle consumers to a free remedy under the Australian Consumer Law," he said, adding that the ACCC was seeking remedies including financial penalties.

It is not the first time Apple has fallen foul of the ACCC.

In 2013, it worked with the watchdog over a court-enforceable undertaking after alleged "misleading representations" to customers that it did not need to refund, replace or repair some products even though required to under Australian law.

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