

White Paper

Discovering the truth behind Transceiver warranties

Sometimes ProLabs hears that a network equipment manufacturer's sales representative has threatened a customer (which could be an end user, reseller or system integrator, etc.) that if they install third-party transceivers in the system, this will void the system manufacturer's warranty. In this way, the sales representative tries to coerce customers into purchasing transceiver modules from the same system manufacturer, usually at much higher prices than ProLabs charges. Someone may use this type of warranty threat to spread fear, uncertainty and doubt in the minds of consumers, rather than to compete on the basis of quality and price.

US Law:

In legal terms, this tactic is referred to as a "tie-in sales provision". In general, such provisions are illegal. They are specifically prohibited in the consumer market by section 102(c) of the Magnuson-Moss Warranty Act of 1975 (15 United States Code section 2302(c)). In the networking equipment and server markets, such behavior can violate sections 1 and 2 of the Sherman Antitrust Act (15 United States Code sections 1 and 2). As the United States Supreme Court has stated:

"The essential characteristic of an invalid tying arrangement lies in the seller's exploitation of its control over the tying product [here, the computer system] to force the buyer into the purchase of a tied product [here, the transceivers module sold by the system manufacturer] that the buyer either did not want at all, or might have preferred to purchase elsewhere on different terms. When such "forcing" is present, competition on the merits in the market for the [transceivers module] is restrained and the Sherman Act is violated." *Jefferson Parish Hospital District No. 2 v. Hyde*, 466 U.S. 2 (1984).

The key point is that, regardless of their legality, these types of techniques are intended to intimidate and put pressure on uninformed purchasers into spending substantially more than they should for transceivers upgrades.

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Magnuson-Moss Q/A

What is the Magnuson-Moss Act?

The US Federal Trade Commission Magnuson-Moss Act protects consumers. This act, passed in 1975, states that tie-in sales provisions are not allowed in consumer warranties. Manufacturers cannot require consumers to purchase items or services in order to keep their warranty valid.

Essentially, the act states that a warrantor cannot require the consumer of its product (a switch for example) to buy an additional product or service (OEM transceivers) to be used with the original product in order to maintain the original product warranty.

In other words, you cannot be required to add the switch manufacturer's transceivers to maintain the warranty on the system. Also, the switch manufacturer cannot state that the system warranty is void if other "brands" of peripherals are used.

For example if you purchased ABC server but chose to use XYZ brand direct attach cables, ABC Company cannot void the warranty or refuse to provide service on your ABC server.

In addition to the Magnuson-Moss Act, any manufacturer that makes its warranty conditional on the purchase of its own equipment may violate antitrust laws.

Understanding the Magnuson-Moss Warranty Act

The Magnuson-Moss Warranty Act is a US federal law that governs consumer product warranties. Passed by Congress in 1975, the Act requires manufacturers and sellers of consumer products to provide consumers with detailed information about warranty coverage. In addition, it affects both the rights of consumers and the obligations of warrantors under written warranties.

To understand the Act, it is useful to be aware of Congress' intentions in passing it. First, Congress wanted to ensure that consumers could get complete information about warranty terms and conditions. By providing consumers with a way of learning what warranty coverage is offered on a product before they buy, the Act gives consumers a way to know what to expect if something goes wrong, and thus helps to increase customer satisfaction.

Second, Congress wanted to ensure that consumers could compare warranty coverage before buying. By comparing, consumers can choose a product with the best combination of price, features and warranty coverage to meet their individual needs.

Third, Congress intended to promote competition on the basis of warranty coverage. By assuring that consumers can get warranty information, the Act encourages sales promotion on the basis of warranty coverage and competition among companies to meet consumer preferences through various levels of warranty coverage.

Finally, Congress wanted to strengthen existing incentives for companies to perform their warranty obligations in a timely and thorough manner and to resolve any disputes with a minimum of delay and expense to consumers. Thus, the Act makes it easier for consumers to pursue a remedy for breach of warranty in the courts, but it also creates a framework for companies to set up procedures for resolving disputes inexpensively and informally, without litigation.

What the Magnuson-Moss Act Does Not Allow

There are three prohibitions under the Magnuson-Moss Act. They involve implied warranties, so-called “tie-in sales” provisions, and deceptive or misleading warranty terms. Tie-in sales are particularly relevant in this case.

“Tie-In Sales” Provisions

Generally, tie-in sales provisions are not allowed. Such a provision would require a purchaser of the warranted product to buy an item or service from a particular company to use with the warranted product in order to be eligible to receive a remedy under the warranty. The following are examples of prohibited tie-in sales provisions.

To keep your new Plenum Brand Vacuum Cleaner warranty in effect, you must use genuine Plenum Brand Filter Bags. Failure to have scheduled maintenance performed, at your expense, by the Number One Maintenance Company PLC, voids this warranty.

Although you cannot use a tie-in sales provision, your warranty does not have to include the use of replacement parts, repairs or maintenance that are inappropriate for your product. The following is an example of a permissible provision that excludes coverage of such things.

Although the necessary maintenance or repairs on your AudioMundo Stereo System can be performed by any company, we recommend that you use only authorised AudioMundo dealers. Improper or incorrectly performed maintenance or repair voids this warranty.

Although tie-in sales provisions generally are not allowed, you can include such a provision in your warranty if you can demonstrate to the satisfaction of the FTC that your product will not work properly without a specified item or service. If you believe that this is the case, you should contact the warranty staff of the FTC’s Bureau of Consumer Protection for information on how to apply for a waiver of the tie-in sales prohibition.

<http://www.mlmlaw.com/library/guides/ftc/warranties/undermag.htm>

For more information, see:
<http://www.mlmlaw.com/library/guides/ftc/warranties/undermag.htm>

European Law:

According to the European law, an explicit or implicit ‘warranty tie’ by an OEM manufacturer would amount to illegal tying under Art 101 and 102 of the TFEU (Treaty of functioning of the European Union), and equivalent laws in each Member State, where:

- ▶ There is a brand-specific aftermarket for replacement parts for that OEM’s products; the OEM has a high share of supply in that market; and the OEM is illegally seeking to protect that position by dissuading ‘captive’ customers of its primary products from sourcing more cost-effective, quality products from anyone else; and/or
- ▶ Even if there is a broader aftermarket for supply of replacement transceivers, if the cumulative effect of practices adopted by OEMs meant that third-party suppliers of replacement components and businesses specialising in fitting such components find it difficult to penetrate the market.

Comma (e) of Article 101 is particularly clear:

“The following shall be prohibited as incompatible with the internal market: all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the internal market, and in particular those which:

(e) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.”

Article 101 and 102 of the Treaty of functioning of the European Union

Article 101

1. The following shall be prohibited as incompatible with the internal market: all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the internal market, and in particular those which:

(a) directly or indirectly fix purchase or selling prices or any other trading conditions;

(b) limit or control production, markets, technical development, or investment;

(c) share markets or sources of supply;

(d) apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;

(e) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

2. Any agreements or decisions prohibited pursuant to this Article shall be automatically void.

3. The provisions of paragraph 1 may, however, be declared inapplicable in the case of:

- ▶ any agreement or category of agreements between undertakings,
- ▶ any decision or category of decisions by associations of undertakings,
- ▶ any concerted practice or category of concerted practices, which contributes to improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and which does not:

(a) impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives;

(b) afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

Article 102

Any abuse by one or more undertakings of a dominant position within the internal market or in a substantial part of it shall be prohibited as incompatible with the internal market in so far as it may affect trade between Member States.

Such abuse may, in particular, consist in:

(a) directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions;

(b) limiting production, markets or technical development to the prejudice of consumers;

(c) applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;

(d) making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

ProLabs positioning:

ProLabs strongly supports the possibility for customers to choose freely and believes that consumers should be free to purchase compatible transceivers modules without being subject to pressure and misinformation. ProLabs has always placed extreme importance on reliability, designing its modules to meet the specific requirements of the system or class of systems into which the module will be installed. Our transceivers are 100% tested to be reliable and compatible. In addition, all ProLabs transceivers modules are backed by a lifetime warranty, while most OEM only provide one year warranty.

Will ProLabs transceivers void my switch warranty?

NO!

If you buy a battery at the supermarket and use it in your radio, will that void the warranty? a XYZ tyre on your ABC car would it void the warranty on the car? NO!

What if I have an existing service contract with a system OEM but I want to purchase ProLabs server transceivers to upgrade my servers?

No problem! You can install the transceivers yourself it is very easy, no need to open the switch, all ports are accessible, transceivers have mechanical features that prevent wrong insertions.

What if I am currently negotiating a service contract and the OEM tells me that I cannot use third-party transceivers?

You are the customer! The OEM will not want to lose the sale over the transceivers installation. As a customer, you have the right to choose how you would like your service contract to be fulfilled.

Many ProLabs customers around the world have chosen a specific OEM for their systems and have included ProLabs transceivers on their standards list of transceivers

What happens if there is a problem and my server goes down and the OEM service technician will not look at my system because there is third-party transceivers installed?

A defective transceiver causes link down or random errors on traffic. A transceiver is traffic agnostic, it has no knowledge of traffic or protocols features. Any protocol related problem (latency, throughput, something strange happening on a specific VLAN, etc) can't be attributed to the transceiver. ProLabs transceiver provide the same level of monitoring (DOM) provided by original OEM transceivers, so the OEM customer support has access to the same diagnostic that original transceivers would provide. OEMs can't deny warranty if the customer uses third party transceivers. The official OEM position, available on their websites official warranty statements is that they will continue to provide support as per the warranty terms even if you use third party transceivers. Check the link section at the bottom of this document for more information.

In the rare event that there is a failure, ProLabs or its partners will issue an RMA with advanced replacement

What is the duration of the warranty on transceivers provided by OEM? What is ProLabs' one?

Although OEMs claim superior quality and reliability of their transceivers, this is not reflected by their warranty terms. Here is what their statements say

OEM	Warranty Duration
Cisco	1 Year
Arista	1 Year
IBM/Lenovo	1 Year
Juniper	1 Year
Brocade	13 Months
Huawei	1 Year
Extreme	1 Year
HP (X244, X242, X123, X131, X129, X121, X119, X112, X111)	Lifetime(*)
HP (X240, X170, X160, X150, X140, X135, X130, X125, X124, X120, X115, X114, X110)	1 Year
D-Link	2 Years
Allied Telesis	2 Years
Ciena	1 Year
Enterasys	1 Year
Alcatel-Lucent	1 Year

(*) Exclusions apply: <http://h20564.www2.hp.com/hpsc/doc/public/display?docId=c04576975> Some of these devices are close to EOL/EOS

All ProLabs product come with a lifetime warranty!

Useful links

Here are some useful links about official warranty statements from OEM.

Cisco - www.cisco.com/c/en/us/products/prod_warranty09186a00800b5594.html

HP - <http://h20565.www2.hp.com/hpsc/wc/public/home>

Juniper - http://www.juniper.net/techpubs/en_US/release-independent/junos/topics/reference/general/transceiver-m-mx-t-series-standards-by-model.html

Brocade - http://www.brocade.com/downloads/documents/html_product_manuals/VDX6710_QSG_03/wwhelp/wwhimpl/common/html/wwhelp.htm#href=53_1002338_03_6710_QS.1.28.html&single=true

Arista - https://www.arista.com/assets/data/pdf/40G_FAQ.pdf

Palo Alto - <https://www.paloaltonetworks.com/support/support-policies/third-party-components-support.html>

IBM - http://m.ibm.com/http/www-947.ibm.com/systems/support/machine_warranties/faq_upgrade_and_software.html

Lenovo - <http://www-01.ibm.com/support/docview.wss?uid=isg3T1021937>