♻EPA Computer Software Duplication
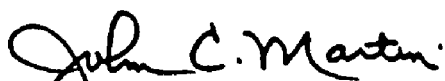
Foreword

The EPA Committee on Integrity and Management Improvement (CIMI) has been working with the Information Technology Association of America (ITAA) to present the following information regarding software piracy, also known as softlifting. ITAA developed a brochure on this issue as part of an extensive awareness campaign designed to bring unauthorized software copying to the public's attention. EPA has adapted ITAA's brochure, with ITAA's permission, and is making it available to EPA personnel.

CIMI has provided this leaflet to make EPA employees and managers aware of the seriousness of copyright infringement and violation of software licenses. Although making unauthorized software copies is relatively easy and is often done innocently, we must all realize that it is wrong and make every effort to ensure that this practice does not occur at EPA.

John C. Martin

John C. Martin
Chairman, Committee on Integrity and
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Either Way, It's Wrong.

People who would never walk into a store and shoplift a software product think nothing of making several copies of the same software. The results are the same. The act is just as wrong.

When it comes to unauthorized duplication of software, many people do not realize the costly impact on the software developer and the customer community. The relationship between customer and developer in a software transaction is one of mutual trust. The customer trusts that the developer has produced a product that will deliver the desired result, performs according to specifications, and is properly documented and supported. The developer trusts that the customer will make use of only those copies for which he has purchased a license, even though making additional unauthorized copies is relatively easy. Unauthorized duplication and use of software violates the U.S. Copyright Law and/or the software license under which

the software was acquired. Such duplication also unfairly deprives software developers of revenue they are entitled to receive for their work.

Software developers find that thousands of illegal copies have been made by customers who either innocently believe they are doing nothing wrong, or simply choose to ignore the law. This cannot continue if the honest customer is to expect better documentation, customer support, upgraded software, and new products at a reasonable cost.

The Problem Is Growing.

America is increasingly dependent on software. Major organizations are discovering that the right software can mean increased productivity and higher profits. Many dollars are invested annually in software produced by independent companies, and these software developers, in turn, re-invest in new product development and user support. Unauthorized users place a substantial burden on the customer support system, to the detriment of legitimate users.

As more software is reproduced unlawfully, software developers devote more and more resources to protecting their rights, often up to and including filing suits for damages or injunctions. Most of those who have been caught have settled out of court to avoid embarrassment and unfavorable publicity.

Unfortunately, the developer cannot hope to recapture most of the lost revenue.

A Forgivable or Justifiable Crime? Ask Yourself.

In a sense, there are two types of crimes involved in unauthorized software copying. Softlifting is performed by individuals illegally making copies for their own use, or use by a friend. Most softlifters see themselves helping a friend, and don't realize a crime is being committed that hurts not only the software developer, but the customer community as well.

Software piracy occurs when individuals or organizations choose consciously to encourage, or unconsciously to allow, employees to make and use illegal software copies, especially if that is done for private financial gain or for profit. Both practices violate the U.S. Copyright Law and the U.S. Criminal Code and expose the individuals and organizations involved to significant fines, even jail terms.

No one wants to sue a customer. It would be far better to all if the need for legal action could be eliminated entirely.

Where Is It Happening?

Software piracy and softlifting are happening in our homes, schools and offices. Examples include employees copying software because they want a copy for personal use at home. Softlifting has invaded the classroom where students, and even teachers, copy software for school use, or to give to friends. Often it happens when organizations expand computer capabilities and new users are given unauthorized copies, rather than going through the purchasing procedure.

In order to serve the user community effectively, the software industry is working with customers to put an end to softlifting and software piracy. People have to understand the law and their responsibility to keep the social contract with software producers.

The Law Is Clear.

Reproducing computer software without authorization violates the U.S. Copyright Law and U.S. Criminal Code. It is a Federal offense. The money paid for a software product represents a license fee for the use of one copy. It does not represent an authorization to copy beyond making a copy for archival purposes. Civil damages for unauthorized software copying can be $100,000 or more and criminal penalties include fines and imprisonment for up to ten years. Bills have been introduced in Congress to strengthen the law and increase penalties.

Myths and Facts of Software.

Let's start by dispelling some myths with a few facts.

First, software developers do not condone unauthorized copying in order to gain market penetration.

Second, the price of software does not make unauthorized copying justifiable.

Third, although the cost of softlifting is borne initially by the software developer, it is ultimately paid for by legitimate users.

Fourth, rationalization of software copying does not make it right or legal. Some people say, "the product is too expensive." The price set by the developer and retailer does not give someone an unlimited license to copy. Also, software pricing is value based. Most software customers find that they pay only pennies per hour for the use of a valuable information processing tool.

A final myth is that the developer expects people to copy it. If you believe this, call and ask the publisher.

Research and development for a single software product cost thousands of staff hours and millions of dollars. The price you pay for software includes the development, marketing and support costs, plus a reasonable return on the investment.

When illegal copies are produced, cheating the developer of revenue, the software company is faced with having to charge legitimate users higher prices. This is simply not acceptable - to honest customers or the industry.

What It Means to You.

It's obvious that legitimate software users are paying for unauthorized copying along with software developers.

It's obvious, too, that no one is going to put up with it for long.

New and better software is important to the growth and productivity of your organization.. The wide variety of software applications available allows you to explore more options, have more complete and timely information for decision making, and help to ensure an improvement in the quality of the industry's products and services. New software won't be financed unless its investors feel secure in receiving a reasonable return on investment. As a software user, you have the responsibility to live up to your agreement, or the Government's agreement, with the developer.

Is Someone Exposing Your Organization?

We are aware that most people do not encourage unauthorized software copying. We also believe that most people confronted with the possible consequences of these acts would stop. ITAA is encouraging all organizations that have an investment in software to conduct an internal review to ensure that unauthorized

software copying is not occurring. No one wants costly or embarrassing legal action.

The EPA Committee on Integrity and Management Improvement asks your support in informing people in your organization that receiving or being a party to unauthorized duplicating or copying of software, in violation of a copyright or a license agreement, is punishable by law.

Where to Get More Information.

For additional information, please refer to the EPA Information Security Manual (EPA Directive 2195) and Chapter 4 of the EPA IRM Policy Manual (EPA Directive 2100). Copies of these manuals can be obtained by contacting the Information Management and Services Division on (202) 260-5914.

Conclusion

It is essential that EPA employees use software in accordance with U.S. copyright laws and/or any license which has been purchased by the Government. To do otherwise may violate the law and/or license and may result in personal or Government liability. It also exposes the Agency to embarrassment and serious financial consequences.

EPA needs to effectively plan for future needs and acquire a sufficient number of copies and/or a license right to make a specific number of additional copies. Therefore, if you are in a position to recommend or approve computer purchase decisions, you should make sure that you have ordered sufficient copies of the necessary software, or have purchased a license to make a sufficient, though specific, number of copies.

If you know or suspect that unauthorized software copies are being made, please notify the Office of Inspector General (OIG). A telephone hotline to the OIG is available: (202) 260-4977 or toll free (800) 424-4000. Information is confidential.

As a step towards pollution prevention, one copy of this leaflet will be printed for every two employees. Therefore, employees are encouraged to share their copies.