

## The Truth About Gray By Joseph Marion

Some manufactures will stop at nothing to scare, threaten and otherwise coerce their IT Managers into NOT buying from the secondary market. They mix words like “used, illegal, stolen and gray market” in the same sentence so as to thoroughly confuse and scare buyers from doing anything but purchasing from them.

But used, illegal, stolen and gray all have totally difference meanings and implications to the IT professional.

I recently received a letter which was sent from one of the top three computer manufacturers to a fortune 1000 customer in an effort to scare that customer away from buying equipment from a secondary market dealer. In that letter the manufacturer wrote, “We understand that you are evaluating obtaining products from a source not authorized by [us.] By obtaining products from unauthorized resellers, brokers or other sources you are subjecting your company to products which may be stolen, illegal or counterfeit.”

What a bunch of hogwash! Let’s clear the air on this one!

### Gray Market

There is nothing illegal about buying equipment from the gray market. In Merrian-Webster OnLine you will find the following definition of gray market (n): a market employing irregular but not illegal methods; especially : a market that legally circumvents authorized channels of distribution to sell goods at prices lower than those intended by the manufacturer

So where does gray market equipment come from? A CISCO senior vice-president said last year that Cisco’s gray market problems can from within its own supply chain. The Anti Gray Marketing Alliance who’s members include CISCO, Hewlett Packard, Nortel and Hitachi recommends that in order to help control the gray market, “Manufacturers can ....put discipline around internal business practices to close loopholes that may be exploited [by their channel partners], and pursue litigation against companies that willfully abuse practices, breach contracts and provide fraudulent information.

Gray market hardware is NEW hardware sold outside the terms and conditions of the manufacturer.

### Used Equipment

Several times a week I hear about an end user who is told by a manufacturer's sales representative that buying used equipment from a source which is "unauthorized" by the manufacturer is illegal. Nothing could be farther from the truth. Anyone can sell a used piece of IT gear and they don't have to be authorized by the manufacturer. If all resellers of used equipment needed to be authorized by the manufacturer, no end-user could resell their used IT gear without first getting permission from the manufacturer!

So used equipment and gray market equipment are two different things.

### Illegal or Stolen

Most IT equipment comes with Operating and/or Application software. Usually that software can not be resold to a second user. Although the policies of all manufacturers vary, most will let a second end user have a license to use that software at a fair price, if not totally free. End users should check with the manufacturers to find out what their policy is and what agreements must be signed.

There are some unethical resellers of hardware who will sell customers licensed software or tell customers to "look the other way" when selling equipment with software already installed. End users need to beware that both they and the Secondary Market Dealer might be violating the law.

Fraudulent parts are another concern. Sometimes unethical resellers will take a manufacturer's part, modify it and then re-label it. Years ago this was an issue when some companies were taking IBM Memory cards, adding some chips to it and then selling it as a different (more expensive part.)

Organizations like the Association of Service and Computer Dealers ([www.ASCDI.com](http://www.ASCDI.com)) and the North American Association of Telecom Dealers ([www.NATD.com](http://www.NATD.com)) have policies against such practices. Recently the issue of theft of software has become a great concern in the secondary telecom market. To combat the problem, the NATD recently announced a software theft policy which states that “the generation, use or sale or the knowing purchase of a false authorization codes to unlock software features a per se violation of the NATD Code of Ethics.” The ASCDI has a similar policy in place with regard to fraudulent parts.

Not all the Same

Manufacturers would like end users to believe that ALL secondary market dealers are unethical. They would like you to believe that since you can't tell the good from the bad, why take the risk? As a matter of fact, the letter I referenced about closes with “Can you afford to assume the risks of doing business with unauthorized channels and sources that cannot be verified?”

Even though the definitions of gray market, used and illegal are pretty clear and mutually exclusive, most manufacturers like bundle them together. When confusion reigns the safest thing for an IT buyer to do is to buy directly from the manufacturer.

The truth is that there are many good and ethical Secondary market Resellers out there. When dealing with a secondary market dealer ask them for references and especially find out what which trade organizations they belong to. The good organizations won't allow the “bad apples” to remain members.

And when a manufacturer's sales representative tells you that buying used “from an unauthorized reseller” is the same thing as gray or illegal, ask him for it in writing. Better yet, ask him to contact me. I will set him straight. I can be found at [www.ascdi.com](http://www.ascdi.com)