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Claims few for software rebate

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CALIFORNIA'S CONSUMERS LAG IN RESPONSE TO SUIT

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Five months after California consumers could begin claiming money from a Microsoft antitrust settlement, only about 4 percent of the estimated 14 million people who are eligible have filed claims.

So far, about 590,000 claims from individuals have been filed, along with about 2,500 claims from businesses, according to the claims administrator.

Microsoft agreed in January 2003 to pay as much as \$1.1 billion in vouchers to millions of California consumers, settling class-action lawsuits that alleged the software giant used its monopoly power with the Windows operating system to overcharge for its products. At the time, plaintiffs' attorneys estimated that 14 million people would be eligible for the vouchers, most of them business customers.

Buyers of Microsoft products can apply for a voucher which can be used toward the purchase of any brand of computer or software.

The deadline for filing claims is officially April 28

but is likely to be pushed back into May or June.

Critics have charged that the claims process -- agreed to by a court -- is confusing and time-consuming, discouraging participation.

Attorneys representing consumers said many people are simply waiting until the last minute to file.

"It's like tax returns -- a lot of people don't file until they're due," said Eugene Crew, partner at Townsend and Townsend and Crew, the firm that negotiated the class-action settlement on behalf of consumers. "When we get closer to the deadline we expect a huge uptick."

Deadline extended

The deadline has been something of a moving target. Originally set for March 15, it was extended once already. The final deadline is supposed to come 30 to 60 days after San Francisco Superior Court Judge Paul Alvarado gives final written approval to the settlement. (The judge has verbally approved the settlement.)

Bob Rosenfeld, an attorney with Heller Ehrman White & McAuliffe in San Francisco, who represents Microsoft, argues that people have been given adequate time and notice to file their claims. He said 17 million notices have

been sent out to Californians.

"We have always believed that we did not overcharge consumers for the software," Rosenfeld said. "The fact that people haven't filed claims didn't particularly surprise us. It's a bit of a referendum on how people felt about our prices and products."

Two-thirds of any unclaimed settlement money will go to California's neediest public schools, and one-third will be kept by Redmond, Wash.-based Microsoft.

Plaintiffs have argued for extending the deadline.

So has a San Francisco lawyer who set up a business to help people file claims.

Howard Yellen, founder of the Settlement Recovery Center, said the claim forms are too complicated and difficult for most people to bother completing. His company, which collects a cut of refunds for doing the paperwork, has started a blitz of ads on the radio and other media to promote its services.

Consumers can obtain a claim form themselves by downloading it from a Web site or calling to request one by mail. Then they must fill out the three-page form and mail it to the claims administrator in Minneapolis. Once a claim is approved, customers will receive a voucher in the

mail that is valid for four years toward the purchase of computer equipment or software.

Judge Alvarado is also considering a request for attorney's fees from the plaintiffs of about \$270 million, including about \$50 million in billable hours plus more than \$200 million in additional payments because of the risk associated with fighting Microsoft.

Large fee

Rosenfeld, the lawyer for Microsoft, called that the largest fee in the history of class-action antitrust litigation, which Microsoft would have to pay in addition to the settlement itself. He said the amount is not justified.

"Even if Microsoft is going to pay it, these kinds of awards to attorneys raise questions about the benefits of class-action litigation," Rosenfeld said.

Crew said the \$1.1 billion settlement is the biggest recovery in the history of California antitrust law. "The compensation we're seeking is unprecedented because the recovery is unprecedented," he said.