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Ordering merchandise by mail— consumer rights and responsibilities

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Quick Facts

- Each year complaints about mail-order items represent the single largest category of consumer complaints.
- Before ordering merchandise by mail, consumers should read advertisements carefully, find out if items can be exchanged or returned, consider the purchase carefully and know what is involved in the mail-order plan.
- A common complaint from mail-order companies is that consumers fail to give complete addresses.
- The Federal Trade Commission has a regulation regarding the mail-order industry with certain rights for consumers.
- When complaints about mail-order merchandise occur, consumers may contact the Federal Trade Commission, the Direct Mail Advertising Association or local consumer bureaus.
- Mail fraud is dealt with by the U.S. Postal Service.
- Unordered merchandise can be considered a gift to the person to whom the goods are addressed.

Each year, consumers purchase by mail order many items, including books, records, auto accessories, plants and garden articles, clothing, home furnishings and novelty items. And each year complaints about mail-order items represent the single largest category of consumer complaints.

Failure to deliver, long delays in delivery, failure to provide refunds for undeliverable goods and failure to answer letters of complaint are common problems.

Consumers should know their rights and responsibilities when ordering merchandise by mail.

Consumer Responsibilities

Consumers have certain responsibilities before ordering merchandise by mail. They include:

—Reading advertisements carefully before ordering. If the advertisement does not give complete information, a consumer should write and inquire before ordering. Does the advertisement give all the information needed to make a purchase decision? Consumers should remember that it is hard to tell the actual size of an item from a photograph unless the ad states the size, or states that the photograph is actual size.

—Finding out if the merchandise can be returned or exchanged before ordering. When ordering merchandise, such as clothing, it is difficult to make decisions about size and color without seeing the merchandise. Therefore, it is important to know if the merchandise can be exchanged for a different item or returned for a refund.

—Considering the purchase carefully. Is the item really needed and desired? Could the same or a similar item be purchased locally?

—Knowing what kind of plan is involved when the mail-order purchase includes joining a book or record club. The club may be one in which books or records are ordered, or it may be one in which books or records are sent and the consumer must return unwanted books or records. The latter plan, a "negative option scheme," means that the customer must carefully read mail and remember to return unwanted items promptly.

After carefully reading the advertisement and considering the item to be purchased by mail, the consumer should take care to give the proper information. The complete address of the buyer is necessary for delivery.

A common complaint from mail-order companies is that consumers fail to give a complete address.

The consumer should keep a copy of the order and the advertisement being answered and a note of where it was sent. Cash should never be sent with an order. If cash is sent, there is no way of knowing if an order was received. A cancelled check is proof that the order was received by the seller.

A notation should be made on the check of the name and address of the firm to which the check is being sent and the check securely fastened to the order.

Consumer Rights

Consumers have certain rights when receiving mail-order merchandise or a refund for the items. The Federal Trade Commission (FTC) regulation regarding the mail-order industry states that:

—Goods must be shipped within 30 days of receipt of the order or within the time disclosed in advertising.

—Companies that cannot deliver within this time period must offer the customer the option of a refund or an additional waiting period.

—Following the second waiting period, the order is to be automatically cancelled and the money refunded unless the customer notifies the company of willingness to wait even longer.

—A mail-order company must adjust a refund to a credit account within one billing cycle.

^{1/} Alice Mills Morrow, CSU associate professor, home management (7/15/76)

—Cash, check or money-order purchases must be refunded within seven days of a legitimate demand.

—Consumers do not have to accept their refund in the form of "credit" for additional company merchandise.

Items that are not within this FTC regulation are "services," such as photofinishing; magazines and other serials, such as book sets, except for initial shipments; seeds and growing plants; and C.O.D. orders.

Merchandise ordered by mail should be shipped to the consumer within the time specified in the advertisement or within 30 days of the receipt of the order.

If merchandise has been ordered and has not been received, the consumer should see first if the check sent with the order has been cashed. If the consumer does not have the cancelled check, the bank should be notified and given the date, number and amount of the check and the name of the person to whom the check was payable. The bank then can tell the consumer if the check has been paid.

If the check has not been cashed, the buyer can stop payment on the check and cancel the order. To cancel the order, the consumer should write to the company, saying that since the check was not cashed the order was not accepted by the company and the consumer has stopped payment on the check and cancelled the order.

Before stopping payment on a check, the consumer needs to find out the charge for stopping payment. Most banks have a fee for a stop-payment order. This fee is frequently around \$3. On small checks, the consumer may want to gamble that the check is lost rather than stopping payment and paying the bank charge. The consumer could lose the amount the check is written for. Therefore, the consumer needs to answer the following question: "Is it worth paying a stop-payment fee of \$_____ in order to prevent the loss of the \$_____ (amount of the check)?"

If the check has been cashed, this means that the consumer has paid for the merchandise. Since the merchandise has been paid for, the consumer needs to decide whether he or she wants the merchandise sent or wants the money returned. Then the consumer needs to make a demand for the merchandise or the money.

To make a demand, a letter should be sent to the company. Figure 1 gives an idea of what to put in a letter of this type.

If the consumer does not receive the merchandise or refund within the proper time, a complaint should be filed with the Federal Trade Commission, Executive Towers, 1405 Curtis St., Denver, Colo. 80202. A copy of this complaint should be sent to the mail-order company.

It is possible that merchandise may be received that does not conform to the advertisement, or which is not the item that was ordered. If the advertisement states that merchandise can be returned, it should be sent back and the proper merchandise or a refund requested.

If after a reasonable time there is no satisfactory response from the firm involved, the customer should write to the Direct Mail Advertising Association (DMAA), Inc., 921 National Press Building, Washington, D.C. 20004.

The DMAA will intervene on the consumer's behalf if the firm is a member of the association. Not all firms are members of the association.

In addition, the consumer might contact the publication which carried the advertisement, the local district attorney's office or the Colorado Office of Consumer Affairs, 112 East 14th St., Denver, Colo. 80203.

If a large amount of money is involved, an attorney should be contacted to see if there is a breach of contract involved and if the consumer can obtain relief through the courts.

Mail Fraud

If the mail-order problem appears to be fraudulent, a Postal Inspector should be contacted either directly or through the local postmaster.

If the consumer believes mail fraud exists, all letters (including envelopes) and other evidence related to the questionable schemes should be retained. A check can be made with neighbors and business associates to see if they have received similar materials. If so, they should be urged to complain also.

To stop a dishonest scheme, Postal Inspectors must find that people buying a product or service were cheated as a result of claims the seller made in an intentional effort to defraud. Mail-fraud violations occur when a general scheme or pattern of fraud exists.

Unordered Merchandise

If a person receives goods in the mail which the person did not order or did not agree to purchase, the person to whom the goods are addressed shall consider the goods a gift. The person may use the goods or dispose of them in any manner he or she sees fit with no obligation to the sender. The sender of unsolicited goods cannot mail any bill for such goods or try to collect any money.

To try and collect money due for a gift sent is a violation of the Colorado Consumer Protection Act. In the event this happens, the consumer should contact the local district attorney's office or the Colorado Office of Consumer Affairs.

Figure 1:

Name of Buyer Street Address City, State, Zip Code Date	
Name of Seller Street Address City, State, Zip Code Dear _____	
I sent you an order for (include complete description of item ordered) on (date). My check sent with the order was cashed. Attached is a photo copy of the cancelled check. This order should have been sent (within thirty days or the time specified in the ad).	
In accordance with my rights under the Federal Trade Commission Regulation regarding the mail-order industry, please (send me the order within thirty days or send me a refund within 7 days) from the date of this letter.	
If the (order or refund) is not received within the time specified, I intend to file a complaint with the Federal Trade Commission.	
Sincerely,	
(Signature of Buyer)	RECEIVED

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