

CHAPTER SIX

The Postman's Knock

Buying by Mail, Phone, Fax, and Internet

SHOPPING VIA MAIL ORDER AND CATALOGS has grown tremendously in the last few years. TV shopping, whether through QVC or HSC, is also very important for some consumers. Most of the rules for ordering by mail apply when ordering by phone for mail delivery, or delivery by another common carrier such as United Parcel Service or Federal Express. Thus consumers who choose to order merchandise through television shopping channels such as QVC or HSC are usually as well protected as those who buy by mail -- often better, since they usually use credit cards to order. (Your rights as a credit-card customer are discussed in [chapter 10](#).) More and more consumers are also ordering products through their computers ([see chapter 14](#)). All of this has been a blessing for consumers with little time to browse in stores, but there are occasionally some drawbacks, including delays in receiving orders, uneven customer service, and inconvenience if a repair or replacement is necessary.

In addition, there is a risk of fraud, since it's hard to assess the company without seeing a showroom or salespeople. In terms of Internet shopping, on-line merchants are more ephemeral even than ones on TV -- and possibly more fly-by-night. At least with a phone number or P.O. Box, there is some paper trail to follow if you have problem. But a computer merchandiser's website may, for all practical purposes, be no more concrete than cyberspace itself. The business may not exist at all, or may be so undercapitalized that there is no telling if it can fulfill your order. Also remember that every time software developers claim they've come up with the hacker-proof way to securely transmit credit card information across the Internet, the hackers have the last laugh. The use of your credit card on your modem may be one wave you should not be so quick to surf, except where you are satisfied that adequate safeguards are in place. Therefore, in addition to the rules we've already learned about contracts, there are special rules that protect consumers involved in mail or telephone transactions, including fax and Internet sales. (Mail-order buying clubs, such as music, video or collectible clubs, are discussed separately in [chapter 13](#).)

SPECIAL MAIL AND TELEPHONE ORDER RULES

The FTC's Mail or Telephone Order Rule covers goods you order by mail, telephone, Internet, and fax. Under this Rule, goods that you buy through these means must be shipped within the time the seller has advertised (e.g., six weeks). This covers goods that you understand not to be available until a certain time, such as magazines or flower seeds. If no time period is specified, the goods must be shipped within thirty days of your order. If they aren't, you must at least have received a notice (by letter, postcard, phone, or fax) informing you of the delay and of when to expect delivery. The seller also has to offer to cancel your order and send you a refund within one week if you don't want to wait any longer. Many states have laws that protect you even further than the federal law.

What about substitute goods? Unless the seller has your consent to agree to a substitute, you don't have to accept one. You can send it back and ask for a refund. If you keep it, though, you have to pay the usual price, unless the company offers it for less. Pick up a pen or the telephone and try to negotiate. Since mail-order firms depend on goodwill more than other companies do, a reputable company may be willing to strike an acceptable deal with you.

Unordered Goods

A frequent problem with mail orders is that you don't get what you ordered. With unordered goods, the problem is the reverse--you get goods you didn't order. Federal law requires the sender of an unordered item sent through the mail to mark the package "Free Sample." (The law permits charities to send you Easter Seals, Hanukkah candles, and the like, and ask for a contribution. You can keep such shipments as free gifts.)

Consumers who receive unordered merchandise in the mail should consider it a gift. You have no obligation to pay for the merchandise, and you may keep it. Though you're not required to by law, you could write the seller a letter stating that you never ordered the item and, therefore, have a legal right to keep it for free. (The letter will help you establish that you never ordered the merchandise and may discourage the seller from sending you bills or dunning notices.) But first make sure you, or a family member, didn't actually order the item in question. And be sure that you didn't inadvertently join a "club" with regular purchasing requirements when participating in a sweepstakes or ordering "trial" or "free" merchandise.

Sending you a bill for unordered merchandise may be fraud, which is a federal crime. If you can't resolve the problem by talking with the company, report such

practices, or any harassment or threats to force you to pay the bill, to the FTC, the Postal Service and your state consumer protection bureau. You also may get help from the Better Business Bureau in your area (you can find it at (<http://www.bbb.org>)). The BBB also has a program focusing on consumer protection for the Internet at <http://www.bbbonline.org/>, or the Direct Marketing Association, 6 East 43rd Street, New York, New York 10017 and <http://www.the-dma.org/channels/consumers.shtml>.

Sidebar

WHILE YOU'RE IN A SPENDING MOOD

Have you ever wondered why there's an offer for a pocket-knife set on the flap of the return envelope of your credit card bill? Or why your department store statements smell like perfume? Or why a mail-in form for Star Trek commemorative plates stands between you and your phone bill?

Companies that offer credit often supplement their income with offers like these, which may or may not be related to the service the company offers. They are hoping that, while your checkbook is open, you might be inclined to order some more stuff. It's also so convenient -- just use the same envelope, and the stamp you have to pay for anyway. This is also known as "co-branding."

But keep your eye on these offers. Because their sponsors are hoping you'll make a casual purchase while in your spending mode, they may try to blindside you. For example, one offer advertised two dirt-cheap folding pocket knives with stainless-steel blades for \$2.00 -- but, in the fine print, charged absurd postage and handling fees of \$6.95. Compare this to the postage and handling in a reputable mail-order catalog. Regardless of the overall value of the product and the postage, it's fair to assume that anyone who structures a pitch like this is not interested in giving something away.

Also, don't assume that the company whose statement includes the offer stands behind it. Trying to resolve a problem with one of these products by calling your credit-card issuer's 800 number will often get you no further than a computer that will tell you the status of your account, a dead end, or to some order fulfillment number -- a toll call often far away from where you live. And sometimes it's even worse: the offers are from companies unrelated to the one that introduced you to them, which offer the use of their credit as a service to you.

Finally, do you need it? It's one thing to be inspired when you open up a catalog, looking for something interesting. But there's a time to pay bills, and a time to shop by mail. They may not be the same time.

CHOOSING WISELY

The different ways of pitching you by mail and phone seem to multiply every day. How do you go about finding the best mail-order values?

Interest Free, but Not Free

Some credit-card companies send a catalog to their customers every couple of months, featuring *the best* and *the finest* appliances, exercise equipment, etc., for their *discerning* customers. The glossy catalogs feature color photographs of each product, and offers *no interest* financing with your credit card. The payout periods are often very long terms, though you can hardly tell the way they're phrased (*34 months*).

But the prices -- on appliances and products routinely discounted at *superstores* and even department stores -- may be marked up; charging interest would just be gilding the lily. Essentially, the mark-up more than makes up for the interest you would pay even on routine retail financing of a discounted appliance. Also, in two or three years, when the joy of that new theater-size television has worn off, how much will you appreciate paying \$46 a month, with another year of payments to go? You won't much care how much of it is *interest*. It's still a bite that comes every month, for a long time.

The Low End

At the other end of the spectrum is the "super value" mail-order company that specializes in appliances, from computers to cameras to fax machines. Their catalogs are printed on newsprint or they offer their wares right in the Sunday paper. Their prices are cut-rate too, though as often as not the one product you're looking for has no price in the catalog -- it says, *Call for latest price*. They don't offer credit themselves, though they gladly accept major credit cards on their order forms or over the phone.

These are often great places to buy what you want. But you'd better be sure you want it, and always will. Outfits like this rarely take back products, or limit the return

period to ten or 14 days -- return postage is on you. At least make sure, if you want to take that risk, that you do get that short period, because often these deep discounters are selling factory-reconditioned appliances or returns. You want to make sure the product basically works. But often, after that, you're on your own.

One more thing: Beware the mail-order place that won't accept in-state phone orders. That's a red flag. It means that, while they're willing to sell to out-of-towners as opposed to having the sale go somewhere else, they'd rather get local folks into the store. If you're thinking bait and switch, you're getting the idea.

Playing it Safe

So what should you do? A rule of thumb in mail-order sales is to find established merchants that have been in business for at least a few years. As with any other business, recommendations from friends are the best assurance of integrity you can have.

Ideally, the merchant you find specializes in what it's selling you (as opposed, again, to an established credit-card merchant that sees an opening in mail-order sales). Though it is by no means a requirement, it's great if, in addition to its mail-order operation, the seller has a real store in a real place (or, if it's an out-of-the-way place, you can visit it yourself or have a friend check it out). That way there's some stability and substantiality. The business shouldn't disappear overnight.

The converse of that is to never do mail-order or Internet business of any substantial size with an unknown place that only has a post office box or a website. It might be gone and untraceable the day after you order.

Placing an order for an inexpensive item is another way to check a company's performance before investing in more costly merchandise. Payment by credit card also is highly recommended -- it usually makes it easier to resolve disputes ([see chapter 15](#)).

Contacts for Resolving Problems

If you have problems with mail or phone order purchases, first try to resolve your dispute with the company. If that doesn't work, the following resources may be helpful.

- The Better Business Bureau (BBB). Contact the BBB in your area or near the company.
- State and local consumer protection offices. Contact the offices near you and near the company.

- Action-line and consumer reporters. Check with your local newspaper, TV, and radio stations for a contact.
- The Direct Marketing Association (DMA). Write: DMA Mail Order Action Line, 1101 17th Street, NW, Washington, DC 20036
- Postal Inspectors. Call your local post office and ask for the Inspector-in-Charge.

You may want to have your name removed from direct mail or telephone lists. Be aware, however, that if you purchase goods by mail after your name is removed, it may be added again. You may want to make a new request to have your name removed every few years. You also may want to ask mail or telephone order companies to retain your name on in-house lists only.

To remove your name from many national direct mail lists, write: DMA Mail Preference Service, P.O. Box 9008, Farmingdale, NY 11735-9008. You can also have your e-mail address deleted from direct marketing lists – at least from lists operated by reputable businesses – by contacting the DMA at <http://www.e-mps.org/en/>. And to avoid unwanted telephone sales calls from many national marketers, send your name, address, and telephone number to: DMA Telephone Preference Service, P.O. Box 9014, Farmingdale, NY 11735-9014

Taxes and Fees

Mail-order forms frequently leave a space for you to add sales tax for ~~in~~-state residents, i.e., people who live in the same state as the company from which they are ordering. (Some companies have stores in many states and usually list them on the form. Take a good look to see if yours is listed, or the order might be delayed if it is sent back to you with a request to add the tax, or you might be billed separately for the tax.) One of the big advantages of buying from a catalog or online is that, in most states, you don't have to pay sales tax if the company doesn't have a retail establishment in your state. Sales tax usually applies only to sales made in person if you take the merchandise with you or have it sent to an address within the state, as well as to within-state mail orders. Thus you might owe no sales tax if you buy merchandise in person in a neighboring state and have it delivered to your home. (Be sure the shipping charges don't eat up the tax savings!) This is completely legitimate, but understand the limitations of the rule:

- It is illegal to send merchandise to a false address, such as that of a relative or friend whose home is in a state where the seller doesn't do business, in order to avoid the tax. It is also illegal to walk out with the merchandise while having an empty box sent to your home.
- Most states have **use taxes** meant to capture the **lost tax** on these transactions. The use tax is frequently identical to the sales tax and would have the same effect on consumers if enforced. Though often not enforced against individual consumers, beware: Some revenue-hungry states have been known to send inspectors to malls over the state line and take down license plates from their own state for later checking against tax-reporting rules.
- Some neighboring states, such as New York and New Jersey, have mutual sales-tax collection pacts.

Always remember that merchants don't **charge** tax **B** they only collect it.

Another little box on that mail-order blank is the one for postage and handling ("P & H"). Catalog shoppers don't necessarily expect discounts, but there is no reason to pay inflated P&H. Almost every mail-order and Internet retailing company adds more than the amount of postage, usually pegging P&H to the amount of your order **B** often a completely arbitrary measure. A published report noted that a well-known lingerie catalog charges an extra \$11.95 for the couple of dollars it costs to ship that *very* lightweight stuff to that someone special. Similarly, a popular catalog of inexpensive novelty items often makes its profits on large P & H fees and in "personalising" charges (that couple of extra dollars for a dime's worth of thread and labor in sewing someone's name onto an item).

In response to increased consumer awareness of this issue, some well-known catalogs and websites now offer very low, flat or even no fees, at least on a test basis. Obviously this is a test you should try to take.

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