



Unordered Merchandise

From the Office of Minnesota Attorney General Lori Swanson

Have you ever received merchandise out of the blue that you didn't actually order? Some people have. This column explains your legal rights if a merchant sends you something you didn't order and don't want.

In some cases, the merchandise may be accompanied by a letter asking the recipient to pay for the item or return it. Other times, the fine print may state that acceptance of the "free" merchandise will enroll the consumer into a "club" that requires regular payments. When this happens, consumers often have a number of questions: Do I have to pay for the merchandise? Am I required to return it? Is this legal?

Under state and federal law, recipients of unordered merchandise may keep the goods and are under no obligation to pay for or return them. The recipient may treat the merchandise as an unconditional gift—and may use or dispose of the merchandise as he or she sees fit. The recipient also may refuse to accept delivery. Federal law states that the sender cannot send you a bill or collection notice for unordered merchandise.

How It Happens

Some unscrupulous companies send unordered merchandise to get the recipient to pay for something she or he did not order and does not want. It can happen like this:

"Marla" received a tote bag from her favorite magazine. Marla didn't order the bag, so she sent it back. The magazine sent the bag back to her with an invoice, claiming that she had used the bag and must pay for it. Marla wrote a letter to the magazine explaining that she did not order the bag and asked it to stop billing her. The magazine agreed to stop.

"Laura's" business received a shipment of copy paper with an invoice for \$550 from an office supply company. Laura checked her records and saw that she had never ordered paper from the company. Laura wrote "RETURN TO SENDER" on the package and sent it back. She never heard from the sender again.

"Bradley" saw an online advertisement for a free CD of his favorite music. He provided his information and got a CD in the mail a few weeks later. Although Bradley thought he only agreed to receive one CD, he began to get a new CD every week. He soon began receiving bills and collection letters. Bradley checked his documentation and saw that he could cancel the CDs at any time without penalty. Bradley called the company, and it canceled the CDs and stopped its collection effort.

Businesses and other organizations like churches or non-profits are also sometimes targeted by office supply scams, "bag and bulb" schemes, and fake or phony invoices. These scams involve unscrupulous companies sending unordered merchandise or invoices for unordered goods or services. In either case, the sender attempts to dupe the recipient into paying for goods and services they did not order and do not want.

In addition, some charitable organizations or their professional fundraisers may send you a token "gift" in order to increase the likelihood that you'll donate

money. These solicitations are sometimes referred to as “guilt solicitations”—the theory is that if the organization sends you a token gift, you’ll be more likely to feel bad about not making a donation in return. You are under no obligation to donate money to a charitable organization that sends you a token gift—or to return the object.

Your Legal Rights

While you do not have to return or pay for unordered merchandise, if you decide to keep it, you may wish to mail a letter to the sender—via certified mail—explaining that you did not order the merchandise and plan to keep it. This should discourage the sender from following up with invoices or collection notices. If you receive an invoice or collection notice for unordered merchandise, you should ask the sender to document how and when you supposedly agreed to receive and pay for the goods.

Additionally, if you believe unordered merchandise was sent to you in error, you may wish to return the unopened merchandise or mail a letter to the sender explaining the problem and asking it to arrange for the merchandise’s return.

It is also important to note that, according to federal law, free samples that are clearly labeled as such, and goods from charitable organizations, *can* be sent without a consumer’s consent.

If you receive unordered merchandise, remember the following:

- You are not obligated to return or pay for the goods, even if you receive an invoice or collection letter.
- Check your documentation before you make a payment.
- Be wary of accepting “free-trial” offers: the fine print may state that acceptance of the merchandise enrolls you in a costly “membership” or “club.”

- Senders of unordered merchandise may not bill you for receiving unordered merchandise, even if you keep it.

How To Report A Problem

You may report problems with senders of unordered merchandise to the Federal Trade Commission (“FTC”), which has authority to take action against deceptive and misleading business practices. You may contact the FTC as follows:

Federal Trade Commission
Consumer Response Center
600 Pennsylvania Avenue NW
Washington, DC 20580
Toll free helpline: 1-877-382-4357
www.complaintassistant.gov

For more information or for assistance resolving a problem involving unordered merchandise, you may contact the Office of Minnesota Attorney General Lori Swanson as follows:

Office of Minnesota Attorney General
Lori Swanson
1400 Bremer Tower
445 Minnesota Street
St. Paul, MN 55101
651-296-3353 or 800-657-3787
TTY: 651-297-7206 or TTY: 800-366-4812
www.ag.state.mn.us