

FTC Facts

For Consumers

January 2002



FEDERAL TRADE COMMISSION
FOR THE CONSUMER

ftc.gov ■ 1-877-ftc-help

Billed for Merchandise You Never Received? *Here's What To Do*

You found the perfect set of linens in a mail order catalog. You call to place your order and charge it to your credit card. You're told that your linens should arrive in two weeks. Two weeks go by, then three and four, and still no linens. What you do get is your credit card bill with a charge from the catalog company.

So, just what do you do when you get a credit card bill but no merchandise? Get frustrated, to be sure.

But the error can be corrected. The Fair Credit Billing Act (FCBA) and the Mail or Telephone Order Merchandise Rule offer protections and procedures for consumers so they don't have to pay for merchandise they ordered but never received.

In addition, many credit card issuers have policies against merchants charging a credit card account before shipment. If you think a merchant charged your account prematurely, report it to the credit card issuer. Otherwise, the credit card issuer has no way to know that the merchant is not complying with its policies.

THE FAIR CREDIT BILLING ACT

To dispute a billing error on your credit card, you *must*:

- Write to the credit card issuer at the address for "billing inquiries," *not* the address for sending your payments (the address for billing inquiries is often found on the back of your most recent

monthly statement); include your name, address, account number and a description of the billing error. A sample letter is included on page 3.

- Send your letter so that it reaches the credit card issuer within 60 days after the first bill containing the error was mailed to you.
- Send your letter by certified mail, return receipt requested, so you have proof of what the credit card issuer received. Include copies (not originals) of sales slips or other documents that support your position. Keep a copy of your dispute letter.
- It is important to send the letter to the correct company. In the case of Visa and MasterCard, you should send it to the bank that issued the card.

The credit card issuer must acknowledge your complaint in writing within 30 days after receiving it, unless the problem has already been resolved. And the credit card issuer must resolve the dispute within two billing cycles (but not more than 90 days) after receiving your letter.

What happens while your bill is in dispute?

You may withhold payment on the disputed amount (and related charges), during the investigation, but you must pay any part of the bill not in question, including any finance charges on the undisputed amount.

The credit card issuer may not take any legal or other action to collect the disputed amount and the related charges (including finance charges) during the investigation. While your account cannot be closed or restricted, the disputed amount may be applied against your credit limit.

You placed an order with a catalog company and they charged your credit card immediately. The catalog company contacts you two weeks later and says the shipment will be delayed 60 days. You agree to the delay. The 60 days have passed and you don't have the merchandise. Can you still dispute the charge?

Maybe. In delayed shipment situations, credit card issuers often are more generous when they calculate the time for allowing disputes. To take advantage of this flexibility, include the following information in your dispute letter.

- **Tell the credit card issuer if the premature charge was unexpected.** Some credit card issuers make an exception to the general industry rule against merchants charging before shipping if the merchant tells you about its practice at the time of sale. If you're certain the merchant said nothing or wasn't clear about its charge practice, the credit card issuer is more likely to allow the dispute.
- **Tell the credit card issuer when delivery was expected.** In no delivery situations, some credit card issuers will use the expected date of delivery rather than the charge date as the start time for you to dispute charges. If you dispute the charge within a reasonable time after the expected delivery date passes, chances are good that the credit card issuer will honor the dispute. When you order or when a merchant notifies you of delayed shipment, it's important to keep a record of the promised shipment or delivery date. Include a copy of any documentation of the

shipment or delivery date when disputing the charge with your credit card issuer.

What if you used a debit card to pay for the merchandise? The consumer protections for a debit card fall under the Electronic Fund Transfer Act and may differ from protections for a credit card under the FCBA. So you may not be able to dispute a debit and get a refund for nondelivery or late delivery. Still, some debit card issuers voluntarily offer protections and solutions to problems like the failure to receive merchandise bought with a debit card. Contact your debit card issuer for more information about particular policies and protections.

What if you financed your purchase through the merchant? If you financed your purchase through the merchant, you also may have protections under state and federal law. Check your credit contract for the following language: *Notice: Any holder of this consumer credit contract is subject to all claims and defenses which the debtor could assert against the seller of goods or services obtained with the proceeds hereof.* It means that you may be able to claim that the seller failed to deliver the goods as stated in your credit contract.

THE MAIL OR TELEPHONE ORDER MERCHANDISE RULE

This rule covers merchandise you order by mail, telephone, computer and fax. It requires merchants to have a reasonable basis for claiming they can ship an order within a certain time.

Ship Dates

- By law, a merchant should ship your order within the time stated in its ads or over the phone. If the merchant doesn't promise a time, you can expect it to ship your order within 30 days.

- The shipment "clock" begins when the merchant receives a "properly completed order." That includes your name, address and payment (check, money order or authorization to charge an existing credit account—whether the account is debited at that time or not).
- If the merchant doesn't promise a shipping time and you are applying for credit to pay for your purchase, the merchant has an additional 20 days (50 days total) to establish the account and ship the merchandise.

Delays

If the merchant is unable to ship within the promised time, it must notify you by mail, telephone, or email, give a revised shipping date and give you the chance to cancel for a full refund or accept the new shipping date. The merchant also must give you some way to exercise the cancellation option for free, for example, by supplying a prepaid reply card or staffing a toll-free telephone number.

- If you ignore the option notice, and the delay is 30 days or less, it's assumed that you accept the delay and are willing to wait for the merchandise.
- If you do not respond—and the delay is more than 30 days—the order must be canceled by the 30th day of the delay period and a full refund issued promptly.

If the merchant can't meet the revised shipping date, it must notify you again by mail, email or telephone and give you a new shipping date or cancel your order and give you a refund.

- The order will be canceled and a refund issued promptly unless you indicate by the revised shipping date that you are willing to wait.
- If you do not respond at all to the second notice, it's assumed that you are not willing to wait, and a full refund must be issued promptly.

SAMPLE DISPUTE LETTER

Date
Your Name
Your Address, City, State, Zip Code
Your Account Number

Name of Credit Card Issuer
Billing Inquiries
Address, City, State, Zip Code

Dear Sir or Madam:

I am writing to dispute a billing error in the amount of \$_____ on my account. The amount is inaccurate because the merchandise I ordered was not delivered. I ordered the merchandise on (date) . The merchant promised to deliver the merchandise to me on (date), and the merchandise was not delivered. (In addition, when I ordered the merchandise, the merchant did not tell me that it would charge before shipping.)

I am requesting that the error be corrected, that any finance and other charges related to the disputed amount be credited to my account, and that I receive an accurate statement.

Enclosed are copies of (use this sentence to describe any enclosed information, such as sales slips, payment records, documentation of shipment or delivery dates) supporting my position and experience. Please correct the billing error promptly.

Sincerely,
Your name

Enclosures: (List what you are enclosing.)

Refunds

If you authorized a charge to your credit card account, the merchant must credit the account within one billing cycle—not give credit toward another purchase. If you pay by cash, check or money order, the merchant must mail you a refund within seven working days.

TIPS FOR SHOPPING BY PHONE, MAIL OR ONLINE

- **Consider your experience with the company** or its general reputation before you order. If you've never heard of the seller, check on its physical location and reputation with the local Better Business Bureau or the state Attorney General's office.
- **Ask about the company's refund and return policies**, the product's availability and the total cost of your order before you place your order.
- **Get a shipment date.**
- **Keep records of your order**, such as the ad or catalog from which you ordered; the company's name, address and phone number; any shipment representation the company made to you and when it made it; the date of your order; a copy of the order form you sent to the company or, if you're ordering by phone, a list of the items and their stock codes and the order confirmation code; your canceled check or the charge or debit statement showing the charge for your order; and any communications to or from the company.
- **Track your purchases.** When you order online, keep printouts of the web pages with the details of the transaction, including the merchant's return policies, in case you're not satisfied.

CONTACTS FOR RESOLVING PROBLEMS

If you have other problems with your purchase, try to resolve your dispute with the company. If that doesn't work, the following resources may be helpful:

- State and local consumer protection offices.
Contact the offices in your home state and where the company is located.
- The Direct Marketing Association (DMA).
Write:
DMA Mail Order Action Line
1111 19th Street, N.W., Suite 1100
Washington, D.C. 20036-3603
- Postal Inspectors. Call your local post office and ask for the Inspector-in-Charge.

Getting More Information

The FTC works to prevent fraudulent, deceptive and unfair business practices in the marketplace and to provide information to help consumers spot, stop and avoid them. To file a complaint or get free information on consumer issues, visit ftc.gov or call toll-free, 1-877-FTC-HELP (1-877-382-4357); TTY: 1-866-653-4261.

Watch a video, *How to File a Complaint*, at ftc.gov/video to learn more. The FTC enters consumer complaints into the Consumer Sentinel Network, a secure online database and investigative tool used by hundreds of civil and criminal law enforcement agencies in the U.S. and abroad.

*Federal Trade Commission
Bureau of Consumer Protection
Division of Consumer and Business Education*