

367.585 Duties of the seller.

- (1) No seller in connection with the use of a negative option plan shall refuse to credit, for the full invoiced amount thereof, the return of any selection sent to a subscriber, and to guarantee to the postal service or the subscriber postage adequate to return such selection to the seller, when:
 - (a) The selection is sent to a subscriber whose form indicating that he does not want to receive the selection was received by the seller by the return date or was mailed by the subscriber by the mailing date;
 - (b) Such form is received by the seller after the return date, but has been mailed by the subscriber and postmarked at least three (3) days prior to the return date;
 - (c) Prior to the date of shipment of such selection, the seller has received from a contract-complete subscriber, a written notice of cancellation of membership adequately identifying the subscriber; however, this provision is applicable only to the first selection sent to a canceling contract-complete subscriber after the seller has received written notice of cancellation. After the first selection shipment, all selection shipments, thereafter are deemed to be unsolicited as defined in KRS 365.710;
 - (d) The announcement and form are not received by the subscriber in time to afford him at least ten (10) days in which to mail his form.
- (2) No seller shall:
 - (a) Fail to notify a subscriber known by the seller to be within any of the circumstances set forth in subsection (1) of this section, that if the subscriber elects, the subscriber may return the selection with return postage guaranteed and receive a credit to his account.
 - (b) Refuse to ship within four (4) weeks after receipt of an order merchandise due subscribers as introductory and bonus merchandise, unless the seller is unable to deliver the merchandise originally offered due to unanticipated circumstances beyond the seller's control and promptly makes a reasonably equivalent alternative offer. However, where the subscriber refuses to accept alternatively offered introductory merchandise, but instead insists upon termination of his membership due to the seller's failure to provide the subscriber with his originally requested introductory merchandise, or any portion thereof, the seller must comply with the subscriber's request for cancellation of membership, provided the subscriber returns to the seller any introductory merchandise which already may have been sent him.
 - (c) Fail to terminate promptly the membership of a properly identified contract-complete subscriber upon his written request.
 - (d) Ship, without the express consent of the subscriber, substituted merchandise for that ordered by the subscriber.

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