

109:4-3-09 Failure to deliver; substitution of goods or services.

- (A) It shall be a deceptive act or practice in connection with a consumer transaction for a supplier:
- (1) To advertise or promise prompt delivery unless, at the time of the advertisement, the supplier has taken reasonable action to insure **prompt** delivery;
 - (2) To accept money from a consumer for goods or services ordered by mail, telephone, or otherwise and then permit eight weeks to elapse without:
 - (a) Making shipment or delivery of the goods or services ordered;
 - (b) Making a full refund;
 - (c) Advising the consumer of the duration of an extended delay and offering to send **the consumer** a refund within two weeks if **the consumer** so requests; or
 - (d) Furnishing similar goods or services of equal or greater value as a good faith substitute **if the consumer agrees.**
- (B) When a consumer transaction involves goods it shall be a deceptive act or practice for a supplier to furnish similar goods of equal or greater value when there was no intention to ship, deliver, or install the original goods ordered. The act of a supplier in furnishing similar merchandise of equal or greater value as a good faith substitute does not violate this rule.
- (C) For the purposes of this rule, goods or services may not be considered of "equal or greater value" if they are not substantially similar to the goods or services ordered, or are not fit for the purposes intended, or if the supplier normally offers the substituted goods or services at a lower price than the "regular price" (as defined in 109:4-3-12 of the Administrative Code) of the goods ordered.

Effective:

R.C. 119.032 Review Dates: 11/10/99, 11/10/04

Promulgated under: R.C. Chapter 119

Statutory authority: R.C. § 1345.05

Rule amplifies: R.C. § 1345.02

Prior effective dates: 6/5/73, 8/28/81