



Christmas Shopping Consumer Rights: Expectations Vs Reality

It seems it is finally time to mention that word – Christmas!!!! Yes, unless you're one of those oddballs who started stockpiling the gifts months ago then, like the rest of us mere mortals, you're now starting to panic at the thoughts of elbowing your way through the crowds or spending hours online looking for the perfect gift only to give up and just get the voucher (which will probably be lost and forgotten about anyway).

So, with everyone doing the gift panic buying, ECC Ireland thought it would be a good idea to look at what many consumers expect are their rights and what the reality is.

As always, we have the consumer success story of the month which looks at how ECC Ireland helped a consumer get a refund when holiday accommodation was not what she booked. The consumer query features a consumer who encountered difficulties returning an item and getting a full refund when the company was going through administration.



Seven common misconceptions about consumer rights

Consumer rights can sometimes be tricky so it's easy for shoppers to get a little muddled about what their rights are and what they are entitled to. Add in the pressure of Christmas shopping and the disappointment of a present not being as expected then there's even more confusion and sometimes upset. So, to help you get through the consumer rights fog, let's try to clear up some of the most common misconceptions consumers often have:

1. 'If I buy something in a shop and then, later on, I simply change my mind that's okay because I'm automatically entitled to a refund anyway?'

If only it were that simple. Unfortunately when you buy something from a bricks and mortar shop you are not automatically entitled to a refund because it's really up to the trader's returns policy, as long as it does not adversely affect your statutory rights (e.g. your right to a repair/replacement or refund when a good is faulty). However, most traders do offer some sort of exchange or refund as a sort of goodwill gesture. This is why it's so important for Christmas shoppers to ask what the trader's returns policy is and if they do offer an exchange or refund check the timeframe, in particular, if there is an extension beyond Christmas week (in case your loved one really doesn't like those snazzy socks). Don't forget to keep those receipts!

2. 'It's more of risk shopping online because you've less rights then when you buy from a shop on the high street.'

You've actually got the same rights when buying online from EU-based traders. In fact, they're slightly stronger because of the 14-day cooling off period which allows you to change your mind without giving a reason, return the item (in good nick) and get a refund of all sums paid (including the initial delivery charge). However, you may have to pay for the cost of returning the item back to the trader so check the terms and conditions to see if this will be covered or not as it can be expensive to return heavy or bulky items. Of course, you should always do your research and pay securely (with a credit/debit card or Paypal) when shopping online, just in case.

Check out our [shopping online](#) page for more information.

3. 'When I buy something in a sale, I don't have the same rights.'

Wrong again. You have the same rights as regards faulty goods shopping in the sales as you do at any other time of the year. Sale items should still be of merchantable quality, be fit for purpose, and be as described. If it is faulty, you are entitled to a repair/replacement, or if appropriate, a refund of the amount paid just as you would with a full priced item. This applies to shop bought and online items. However, brick and mortar stores which operate a voluntary returns policy, may draw a distinction between full price and sales goods.

4. 'If there is a fault with my purchase I can demand a refund straight away no questions asked.'

Wow, hold your horses! Unfortunately, there are a few steps that you and the trader have to take before you get to the refund stage. Where there is a lack of conformity (e.g. the good does

not comply with the description given, it's not fit for purpose, and/or it doesn't show the quality and performance that one would reasonably expect) then a consumer may first ask the seller to first provide a repair or replacement free of charge. If that's not possible, is disproportionate, or cannot be done within a reasonable time or without significant inconvenience to the consumer, it is at this stage that a consumer can request a full refund of all sums paid. It's not necessarily a question-free process; If the lack of conformity becomes apparent within six months of delivery, it is presumed to have existed at the time of delivery and, accordingly the trader will be required to prove otherwise or provide remedies. However, if the fault arose very soon after purchase, and Irish or UK law applies, you may be entitled to reject the goods and get a full refund in the first instance.

Check out our [buying goods and services](#) page for more information.

5. 'The terms and conditions are a load of rubbish. There's no need to spend time reading it at all.'

Okay, so reading terms and conditions aren't on peoples' list of top things to do when in the midst of the Christmas shopping frenzy and yes, often they do look like a load of gobbledygook. To protect yourself and know who you are entering a contract with, then you have an obligation to yourself to read it. You don't have to read it all; Just look out for the main points – who the trader is and where the company is based, what is the returns/cancellation policy and how do you do it, will you have to pay for return, etc? So many consumers are guilty of ticking the 'I've read the terms and conditions' box when they haven't. Remember, by giving your explicit consent (e.g. pressing the purchase button and paying) then you've essentially agreed to the terms, so not only do traders have to hold up their end of the bargain, but so do you. It is a contract afterall, so get comfortable and just read it.

6. 'There's no need to tell couriers or proxy address companies the value of my purchases. If they lose or break it they'll just have to pay for all of it.'

That really depends on how much you value your lovely shiny new Christmas gifts. If you're worried that a valuable, fragile, or even sentimental item will get lost or damaged during delivery then it would certainly be worthwhile checking the terms and conditions (yes, that again) when engaging the services of such companies as some place a cap on the amount that they are liable for. So, if your €300 purchase goes AWOL and you might only get €100 back then it might be worth looking into paying for extra cover.

7. 'The courier delivered my purchase but it was only later on, when I opened the box, that I realised it was faulty. Sure, I've signed for it now so there's nothing I can do.'

Don't give up yet. Yeah, so you signed for it. So what? It doesn't mean that you've signed away your rights, the item is still faulty! It's always recommended to check the goods as soon as you can and if you find a fault or you got a pink tutu instead of those really cool runners that everyone is going to be jealous about (or at least they would have), then you need to contact the trader, in writing, straight away outlining your problem and stating that you wish to avail of your rights. Don't forget that not only do you have rights when the goods are not in conformity, but when you buy online (for some purchases) you also have the 14-day cooling off period, which

kicks in from the date you receive the goods. Or you can just keep the pink tutu and totally rock it! No judgement here.

Extra tip: There's also a little thing called the passing of risk which comes into play when there's a question over who is liable (the trader or the courier) for the damage or loss of your lovely delivery. It all depends on if the courier was organised by the trader or whether you organised delivery yourself through a courier/delivery service? See our previous post [about shopping delivery issues and your consumer rights](#) for more information.

Consumer success story of the month:

An Irish consumer booked two apartments in London via a Dutch intermediary for her family. She carefully selected accommodation that best suited her family's needs. On arrival the accommodation was not as advertised and the two apartments were in separate buildings a significant distance apart. As a result of this, the family were accommodated in one of the apartments with children sleeping on the couch and two temporary beds on the floor. The consumer complained but was not refunded for the unused apartment. ECC Ireland sought the assistance of colleagues in the Netherlands who contacted the booking intermediary on the consumer's behalf. They pointed out that the accommodation provider did not provide what was booked as the apartment allocated did not correspond to the advertised address. Following a review, the consumer received a full refund of €550.

Consumer query of the month:

Q: I ordered a product online from a well-known UK retailer but then I wanted to return it and get a full refund. However, when I went to return it to the address provided on the website, I was told that the warehouse at that location was full and my order could not be returned. How can I return a product to a company if the returns address is no longer an option because the company is experiencing financial difficulties and is in the process of being bought over by another company?

A: When a company is going through administration, then it is advisable for consumers to contact the designated customer service section to see if the current company is still actively providing after sales service or if the new owner of the company has taken over the liabilities for past orders. Consumers should also clarify what address the order should be returned to. However, if the new owner is refusing to accept liability for past orders, then the consumer may need to contact the administrator/liquidator for the previous company to see if they can provide further clarification in this regard. Alternatively, if the consumer can receive a written statement from the postal service to confirm that the warehouse is currently full and if the consumer can show that he/she tried to resolve the matter with the company to no avail, chargeback through the bank/credit card provider may also be an option.

The Competition and Consumer Protection Commission's website has further information about [companies going out of business](#).

FOR FREE CONSUMER ADVICE CALL US ON 01-8797620 OR USE OUR ONLINE CONTACT FORM

If you want more information about this or any other cross-border consumer issue, please contact us on 01 8797 620 or go to www.eccireland.ie. You can also follow us on [Twitter](#).

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The European Consumer Centre is part of the European Consumer Centres Network (ECC-Net), which covers 30 countries (all EU countries plus Norway and Iceland), and offers a free and confidential information and advice service to the public on their rights as consumers, assisting customers with cross-border disputes. ECC Ireland is funded by the European Commission and the Competition and Consumer Protection Commission.

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