

A restaurant owner sent a signed order form to a produce supplier that read: "Please ship us 100 pounds of potatoes at your current price." The supplier received the order form on November 9. Later the same day, the supplier mailed the owner a letter with the proper address and postage. The letter stated that the order had been accepted at the supplier's current price for potatoes. On November 10, before receiving the supplier's reply, the owner telephoned the supplier to inform the supplier that the owner had found a closer supplier and was canceling the order. The supplier asked the owner to reconsider, but the owner refused. On November 11, the owner received the supplier's letter. Relying on the owner's telephone call, the supplier never shipped any potatoes to the restaurant.

As of November 12, is there an enforceable contract between the supplier and the owner?

- A. No, because the owner effectively revoked its offer before it was properly accepted.
- B. No, because the owner's offer could be accepted only by shipment of the goods, and the supplier never shipped the potatoes.
- C. Yes, because the owner's offer was irrevocable for a reasonable time.
- D. Yes, because the supplier effectively accepted the owner's offer before the owner revoked it.

## Explanation:

### Contract negotiations by mail\*

<b>Offeror's actions</b>	Offer	Effective upon receipt
	Revocation of offer	
<b>Offeree's actions</b>	Acceptance (mailbox rule)	Effective upon dispatch Exceptions—effective upon receipt if: improperly stamped/addressed acceptance by mail unreasonable rejection mailed before acceptance (first received is effective) acceptance of option contract offer states acceptance effective only upon receipt
	Rejection/counteroffer	Effective upon receipt

\*Applicable under common law & UCC.

Contracts for the **sale of goods** (eg, potatoes) are governed by Article 2 of the **Uniform Commercial Code** (UCC). Under the UCC, a seller can **accept a buyer's offer** to purchase goods for prompt or immediate shipment by **promising to ship, or by shipping**, the goods. Once accepted, the offer **cannot be revoked** because a contract has been formed.

Here, the restaurant owner sent the produce supplier a signed order form that read: "Please ship us 100 pounds of potatoes at your current price." This was an offer that the supplier could accept by promising to ship, or by shipping, the potatoes (**Choice B**). On November 9, the supplier mailed the owner an acceptance letter that was effective when sent—not upon receipt.\* This means that the owner's attempt to revoke its offer on November 10 was *ineffective*, and there is an enforceable contract between the parties (**Choice A**).

\*An acceptance by mail is generally effective when sent (not upon receipt). But this mailbox rule does not apply to (1) option contracts, which require that the acceptance be received before the offer expires, or (2) offers that specify that acceptance must be received by a certain date.

**(Choice C)** Certain offers are *irrevocable*. This includes firm offers—ie, a merchant's written and signed assurance that the offer will be held open for the time stated in the offer or a reasonable time (not to exceed 90 days). No firm offer was made here, however, so the owner could revoke its offer at any time *prior* to acceptance.

### Educational objective:

An offer to buy goods for prompt or immediate shipment can be accepted by promising to ship (or by shipping) the goods. Once the offer has been accepted, it cannot be revoked because a contract has already been formed.

**References**

U.C.C. § 2-206 (Am. Law Inst. & Unif. Law Comm'n 2020) (offer and acceptance).

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