On December 15, a doctor received from a retailer of office supplies an offer consisting of its catalog and a signed letter stating, "We will supply you with as many of the items in the enclosed catalog as you order during the next calendar year. We assure you that this offer and the prices in the catalog will remain firm throughout the coming year."

On January 15, having at that time received no reply from the doctor, the retailer notified the doctor that effective February 1, it was increasing the prices of certain specified items in its catalog.

Is the price increase effective with respect to catalog orders the retailer receives from the doctor during the month of February?

A. No, because the retailer is a merchant with respect to office supplies; and its original offer, including the price term, was irrevocable throughout the month of February.

B. No, because the retailer's original offer, including the price term, became irrevocable under the doctrine of promissory estoppel.

C. Yes, because the period for which the retailer gave assurance that it would not raise prices was longer than three months.

D. Yes, because the retailer received no consideration to support its assurance that it would not increase prices.

Explanation:

Under the UCC firm-offer rule, **merchants** are defined as:

persons who regularly deal in goods of the kind involved in the contract

persons who, by their occupation, hold themselves out as having knowledge or skills peculiar to the practices or goods involved *or*

any businessperson when the transaction is of a commercial nature.

A merchant's **firm offer** is **irrevocable**—and **cannot be modified**—for the **time stated** in the offer or a reasonable time if none is stated. But in **no case** will a firm offer remain irrevocable for **more than three months**.

Here, on December 15, the doctor received a catalog and a signed letter from the retailer offering to supply office supplies at the catalog prices and assuring that the offer would remain open for one year. The retailer is a merchant who regularly deals in office supplies, so its offer was firm. And although the specified time period exceeds the three-month limit, the retailer's offer is still irrevocable for three months—until March 15 **(Choice C)**. Therefore, the retailer's attempt to increase prices was not effective with respect to February orders.

(Choice B) Under the doctrine of promissory estoppel, an offer becomes irrevocable if (1) the offeror could reasonably foresee that the offeree would rely on the offer and (2) the offeree reasonably and detrimentally relied on that offer. But here, there is no indication that the doctor relied on the retailer's offer or suffered any detriment.

(Choice D) A firm offer is irrevocable even if there is no consideration for the assurance that the offer will be held open. Therefore, the lack of consideration does not make the retailer's price increase effective.

Educational objective:

A merchant's written and signed assurance that an offer will be held open (ie, firm offer) can never exceed three months—even if the offer states that it will be held open for a longer period.

UCC = Uniform Commercial Code

References

U.C.C. § 2-205 (Am. Law Inst. & Unif. Law Comm'n 2020) (firm offers).

Irrevocability of firm offers