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Mr. Tolson - 60-11-10000

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-177617
MATTER OF:

DATE: NOV 16 1976

Credit sales by Government Printing Office

DIGEST:

Except for certain transactions subject to statutory prohibitions against credit sales, Government Printing Office (GPO) may sell publications on credit, through its own facilities, where it determines that extending credit will facilitate sales without increasing administrative costs or price of publications. Under the same circumstances, and subject to the same statutory restrictions, GPO may also arrange with credit card company for sales by credit card. Moreover, sales to company cardholders could include transactions for which GPO is prohibited from making credit sales since credit here is extended by card company rather than by GPO as vendor.

In response to many inquiries about the use of credit cards by purchasers of Government publications, the General Counsel of the United States Government Printing Office (GPO) has requested our opinion on the following questions:

"* * * whether the Government Printing Office may extend credit to private parties, government officials, and members of Congress who wish to purchase Government documents from the Superintendent of Documents. May the GPO sell government publications to purchasers who tender credit cards in lieu of cash? Are any special terms or conditions required in the agreement between the Government Printing Office and such credit card companies?"

The General Counsel states that under certain (unspecified) conditions, the practice of making credit card sales would facilitate sales of documents, would not result in increased prices to the public, and would not increase administrative costs.

The Superintendent of Documents, GPO, has the authority to sell through mail orders and Government bookstores all public documents subject to distribution that are not otherwise required by law to be printed and distributed for the official use of the executive departments and those printed and distributed for the two Houses of Congress. In this regard, 34 U.S.C. § 1701 (1970) states in pertinent part:

"When an officer of the Government having in his charge documents published for sale desires to be relieved of them, he may turn them over to the Superintendent of Documents, who shall receive and sell them under this section. Moneys received from the sale of documents shall be returned to the Public Printer on the first day of each month and be covered into the Treasury monthly.

"The Superintendent of Documents shall also report monthly to the Public Printer the number of documents received by him and the disposition made of them. He shall have general supervision of the distribution of all public documents, and to his custody shall be committed all documents subject to distribution, excepting those printed for the special official use of the executive departments, which shall be delivered to the departments, and those printed for the use of the two Houses of Congress, which shall be delivered to the Senate Service Department and House of Representatives Publications Distribution Service and distributed or delivered ready for distribution to Members upon their order by the superintendents of the Senate Service Department and House Publications Distribution Service, respectively."

Several statutory provisions preclude GPO from making credit sales with respect to certain transactions, as follows:

- 44 U.S.C. § 722 (1970) prohibits credit sales of the Congressional Directory.
- 44 U.S.C. § 733 (Supp. V, 1975) requires prepayment by Members of Congress for special order reprints of specified congressional committee materials.
- 44 U.S.C. § 910(b) (Supp. V, 1975) requires advance payment for subscriptions to the Congressional Record.
- 44 U.S.C. § 1706 (1970) requires advance payment for the printing of extra copies of certain congressional materials.

We have found no statutory provisions which specify the method of payment for other materials sold by GPO.

It appears that GPO is considering (1) extending credit on sales through its own facilities and/or (2) arranging with a credit card company for acceptance of its credit cards.

As to the first alternative, while the Government does not ordinarily provide goods or services on credit, there is no general statutory prohibition against credit sales. See 52 Comp. Gen. 764, 765 (1973), discussed hereafter. The four statutory provisions cited above do clearly prevent the extension of credit by GPO for the particular transactions covered. On the other hand, we know of no statute or other authority which would preclude GPO from making credit sales in transactions not covered by the four provisions. In fact, the very existence of these limited specific prohibitions tends to support the view that GPO has discretion in the manner of payment for other sales.

Accordingly, it is our opinion that GPO may make credit sales except to the extent prohibited by the four statutory provisions. Our conclusion is premised on the GPO General Counsel's representation that this practice would facilitate sales without increasing administrative costs or prices charged to customers.

As to the second alternative, in 52 Comp. Gen. 764, *supra*, we confirmed the legal authority of the National Technical Information Service (NTIS), Department of Commerce, to contract with a credit card company for the acceptance of its cards in sales of NTIS publications, under the following explanation:

"The proposed credit card plan is not to result in increased prices to the public nor is it expected to escalate the administrative costs of NTIS above the level experienced under existing procedures. Payment of all authorized charges will be guaranteed by the credit card company." *Id.* at 765.

As noted previously, our decision pointed out that there is no statutory prohibition against credit sales by the Government. We also emphasized that the proposed arrangement would permit more rapid and convenient service, thereby furthering NTIS' statutory mandate to make the results of technological research readily available to industry, business, and the general public.

We believe that the reasoning of our 1973 decision applies as well to GPO. While the sale of Government publications is not GPO's only role, it certainly forms an important part of the agency's work as provided for by law. Thus, if the acceptance of credit cards enables sales to be made more efficiently and conveniently, performance of GPO's statutory functions would likewise be enhanced. Therefore, we have no legal objection to an arrangement between GPO and a credit card company for acceptance of credit cards.

Moreover, acceptance of payment by a company credit card may in our view, include those transactions for which GPO could not itself extend credit by virtue of the four statutory provisions discussed above. As indicated in our 1973 decision, and confirmed by other authorities, the arrangement between a vendor and a credit card company typically guarantees to the vendor payment for purchases made by credit cards duly accepted. See 50 Am. Jur. 2d, Letters of Credit, § 39; Williams v. United States, 192 F. Supp. 97, 99-100 (S.D. Cal. 1961). It has been observed that such credit card transactions are at least equivalent to cash sales from the vendor's perspective:

"Merchants also benefit from the acceptance of charge cards and are willing to treat a charge card transaction as a replacement for cash payment. They are typically protected by the terms of their merchant agreements from risks associated with accepting payment in a noncash form. For instance, they avoid certain risks associated with the acceptance of a check in payment, such as the risk of forgery or lack of funds in the purchaser's checking account. The acceptance of a bank charge card may be even safer than acceptance of cash itself in that the merchant is also protected from the risk of counterfeit. A merchant knows that he will receive an immediate credit in his demand deposit account when he deposits a sales slip, just as he would if he deposited cash. * * *

"Finally, in those instances in which the cardholder purchases goods or services and then decides to exercise his option to repay in installments, the extension of credit is accomplished more economically than if the

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merchant had operated his own charge program or if the bank had extended a series of separate loans to cover the cost of the goods or services purchased. Such lower costs probably benefit the consumer in the form of lower prices for the products and services he purchases." Brandel & Leonard, Bank Charge Cards: New Cash or New Credit, 69 Mich. L. Rev. 1033, 1040 (1971).

We conclude that sales by GPO to holders of company credit cards would not violate the four statutory provisions which prohibit credit sales by GPO provided that the company guarantees payment of charges. As indicated above, such credit card sales are essentially the same as cash sales in terms of protecting the Government's interests as vendor. Under this arrangement, credit is extended by the credit card company rather than by GPO as vendor.

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