

**OPINION
62-103**

August 22, 1962 (OPINION)

DEFINITION

RE: Price - Relating to Cream Prices

This is in reply to your request of August 16, 1962, for an opinion of this office concerning the definition of the word price when charges for transportation are charged to the seller by the purchaser. You state the specific question as follows:

(S)hould the price, which is required to be posted, be the amount paid to the producer before transportation charges are deducted or should this posted price stipulate in some manner, the amount of transportation charges which will be deducted from the total amount paid to the producer by the purchaser?"

Section 4-18-16 of the North Dakota Century Code provides:

PURCHASES OF CREAM - PRICES OF GRADES TO BE KEPT POSTED. All purchases of cream shall be on the basis of the grades defined in section 4-18-15. Every person, firm, or corporation owning, purchasing or managing a creamery, cream station, or other butterfat purchasing establishment in this state where butterfat is purchased, shall post the prices being offered for butterfat at such station. If any different price is being offered at any other butterfat purchasing establishment owned, operated, or controlled by the same person, firm or corporation within one hundred miles, there also shall be posted at the same place the amount of each different price being offered on the same day at such other places. If a different price is being paid at any one butterfat purchasing establishment within a radius of one hundred miles owned, operated, or controlled by the same person, firm or corporation for butterfat shipped directly, than is being offered for butterfat delivered at such point, both a direct shipment and delivered price must be so posted. All such prices shall be posted in a place where they can be clearly seen from the street. A price different from that so posted for any given town or cream buying establishment shall not be paid for such products. All purchasers of cream and butterfat shall maintain a reasonable price differential for such grades and at no time shall this differential be less than one cent per butterfat pound between grades."

You will note the above section requires the prices being offered for butterfat "at such station" to be posted. In our estimation this refers to the net amount being offered for the various grades of butterfat at such station. The above section further provides that if a different price is being paid at any one butterfat purchasing establishment within a radius of one hundred miles owned, operated, or controlled by the same person, firm, or corporation for butterfat shipped directly, than is being offered for butterfat delivered at

such point, both a direct shipment and delivered price must be so posted.

It is, therefore, our opinion that when transportation charges are charged to the seller by the purchaser, the prices posted should include both the prices for butterfat shipped directly and that which is delivered. Thus, if butterfat is shipped directly with the costs of transportation charged to the seller by the purchaser, the net price will be the price for butterfat which is delivered less the costs of shipping or transportation.

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