

Ag 109

STATE OF WISCONSIN
STATE DEPARTMENT OF AGRICULTURE } SS

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

I, D. N. McDowell, Director of the State Department of Agriculture, and custodian of the official records of said department, do hereby certify that the annexed rules relating to Dairy Industry Trade Practices (Wis. Adm. Code ch. Ag 109) were duly adopted by this department on November 13, 1962.

I further certify that said copy has been compared by me with the original on file in this department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the department at the Capitol, in the city of Madison, this 14th day of November, A. D. 1962.

A. N. McDowell
Director

Docket No. 652.

ORDER OF THE STATE DEPARTMENT OF AGRICULTURE
ADOPTING RULES

Pursuant to authority vested in the State Department of Agriculture by section 227.014 (2) (a), Wis. Stats., the State Department of Agriculture hereby adopts rules as follows:

Chapter Ag 109 of the Wisconsin administrative code is adopted to read:

Chapter Ag 109

DAIRY INDUSTRY TRADE PRACTICES

Ag 109.01 Sales promotion as price discrimination. (1)

"Sales promotion" is the use of any device by a wholesaler of selected dairy products to promote the sale of any of his products which in effect reduces the wholesale purchase price of his selected dairy products. "Sales promotion" includes, but is not limited to, the use of: temporary price reductions; reimbursements by a wholesaler to a retailer for the cost of coupons or trading stamps which are redeemed at such retailer by the consumer; free goods allowances; and merchandise to be furnished or sold in combination with or on condition of the purchase of one

or more other items.

(2) Any sales promotion which directly or indirectly results in unequal price treatment between different purchasers of selected dairy products of like grade and quality by a wholesaler of selected dairy products is a price concession and a deviation from his current price list and constitutes price discrimination. Where the effect of such a sales promotion may be to substantially lessen competition or to create a monopoly, or to injure, destroy or prevent competition with any person who either grants or knowingly receives the benefit of such discrimination, such a sales promotion is an unlawful price discrimination and is in violation of section 100.201 (2) (b), Wis. Stats.

(3) A wholesaler of selected dairy products may in good faith equally meet a sales promotion of a competitor wherever he chooses if such competition is met during his competitor's sales promotion.

(4) The fact that a sales promotion results in a lower purchase price to the consumer is not a defense to a charge of violation of section 100.201 (2) (b), Wis. Stats.

Ag 109.02 Gifts to retailers. (1) The giving of any money, merchandise, services or materials of any value by a wholesaler of selected dairy products to a retailer of selected dairy products which assists the retailer in the conduct of his business and for which such money, merchandise, services or materials the wholesaler does not receive full consideration from the retailer is evidence of an unlawful gift contrary to section 100.201 (2) (1), Wis. Stats.

(2) The fact that a wholesaler gives the same gift or a gift of equal value to each of his competing accounts is not a defense to a charge of violation of section 100.201 (2) (1), Wis. Stats.

(3) The fact that a gift to a retailer results in a lower purchase price to the consumer is not a defense to a charge of violation of section 100.201 (2) (1), Wis. Stats.

Ag 109.03 Application. The provisions of this chapter shall not apply to any conduct otherwise expressly permitted, required or prohibited by section 100.201, Wis. Stats.

The rules contained herein shall take effect on January 1, 1963.

Dated: November 13, 1962.

STATE DEPARTMENT OF AGRICULTURE

By /s/ D. N. McDowell
Director