



Gemini Pro 2.5 #11

On July 1 Buyer sent the following telegram to Seller: "Have customers for salt and need carload immediately. Will you supply carload at \$2.40 per cwt?" Seller received the telegram the same day. On July 12 Seller sent Buyer the following telegram, which Buyer received the same day: "Accept your offer carload of salt, immediate shipment, terms cash on delivery." On July 13 Buyer sent by Air Mail its standard form "Purchase Order" to Seller. On the face of the form Buyer had written that it accepted "Seller's offer of July 12" and had written "One carload and \$2.40 per cwt." in the appropriate spaces for quantity and price. Among numerous printed provisions on the reverse of the form was the following: "Unless otherwise stated on the face hereof, payment on all purchase orders shall not be due until 30 days following delivery." There was no statement on the face of the form regarding time of payment. Later on July 13 another party offered to sell Buyer a carload of salt for \$2.30 per cwt. Buyer immediately wired Seller: "Ignore purchase order mailed earlier today; your offer of July 12 rejected." This telegram was received by Seller on the same day (July 13). Seller received Buyer's purchase order in the mail the following day (July 14). Briefly analyze each of the items of correspondence in terms of its legal effect and indicate what the result will be in Seller's action against Buyer for breach of contract.

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The Seller will win a breach of contract action against the Buyer. A contract was formed on July 13 when the Buyer mailed its Purchase Order, and the Buyer's subsequent telegram was an ineffective rejection and constituted a breach.

Analysis of Communications

Here is a brief, step-by-step analysis of the legal effect of each communication. This situation involves the sale of goods (salt), so it is governed by the Uniform

Commercial Code (UCC).

July 1: Buyer's Telegram

- **Communication:** "Have customers for salt and need carload immediately. Will you supply carload at \$2.40 per cwt?"
 - **Legal Effect:** This is not an offer. The language "Will you supply..." indicates an **inquiry** or a solicitation of an offer. It does not express a present willingness to be bound to a contract but rather invites the Seller to make an offer.
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July 12: Seller's Telegram

- **Communication:** "Accept your offer carload of salt, immediate shipment, terms cash on delivery."
 - **Legal Effect:** Although it uses the word "Accept," this communication is legally an **offer**. Since the Buyer's July 1 telegram was only an inquiry, there was no offer to accept. This telegram from the Seller contains specific terms (quantity, price, shipment, and payment), creating a firm offer and giving the Buyer the power to form a contract by accepting it.
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July 13: Buyer's Purchase Order (Mailed)

- **Communication:** A purchase order form accepting "Seller's offer of July 12" but containing a printed term on the reverse for payment "30 days following delivery."
- **Legal Effect:** This is an **acceptance** that forms a contract. Under UCC § 2-207, often called the "Battle of the Forms" rule, a definite expression of acceptance creates a contract even if it contains additional or different terms.
 - The Purchase Order clearly states it accepts the Seller's offer, creating a contract under UCC § 2-207(1).
 - The payment term ("30 days following delivery") is a **different term** from the Seller's offer ("cash on delivery"). Under the majority "knockout rule" applied by most courts, conflicting terms cancel each other out. The UCC then fills the gap with a default rule.

- The relevant UCC gap-filler, § 2-310(a), states that payment is due at the time and place the buyer is to receive the goods—which is effectively "cash on delivery."
 - Crucially, under the **Mailbox Rule**, an acceptance is legally effective upon dispatch (when it was mailed), not upon receipt. Therefore, a contract was formed on the morning of July 13.
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July 13: Buyer's Rejection Telegram

- **Communication:** "Ignore purchase order mailed earlier today; your offer of July 12 rejected."
 - **Legal Effect:** This telegram is an **ineffective rejection** and constitutes a **breach of contract**. A contract had already been formed earlier that day when the Buyer dispatched the Purchase Order. An attempt to reject or revoke an offer after an acceptance has already been dispatched is too late. This communication serves as an **anticipatory repudiation**, indicating the Buyer's intent not to perform its obligations under the newly formed contract.
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Conclusion

The Seller will prevail in a lawsuit against the Buyer. A valid contract was formed on July 13 upon the dispatch of the Buyer's Purchase Order. The conflicting payment terms are resolved by the UCC's "knockout rule," resulting in a default term of payment on delivery. The Buyer's subsequent telegram was an anticipatory repudiation of the contract, giving the Seller the right to sue for breach and recover damages.