



Gemini Pro 2.5 #6

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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No, a contract was not formed, and the Seller's action for breach will fail. The Buyer's rejection of the offer was received by the Seller before the Buyer's attempted acceptance was received, effectively terminating the offer.

Analysis of Correspondence

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

Code (UCC).

- **Buyer's July 1 Telegram:** This was **not an offer**. The language "Will you supply...?" is an inquiry or a solicitation for an offer. It does not express a definite willingness to be bound to a contract but rather opens negotiations.
 - **Seller's July 12 Telegram:** This was a **valid offer**. It was a direct response to the Buyer's inquiry and contained specific terms: quantity ("carload"), price ("\$.40 per cwt"), and terms of payment ("cash on delivery"). This communication created the power of acceptance in the Buyer.
 - **Buyer's July 13 Purchase Order (Mailed):** This was an **attempted acceptance**. Under UCC § 2-207 (the "Battle of the Forms" rule), this document would likely be treated as an acceptance even though it contained a new term ("payment... 30 days following delivery"). However, the effectiveness of an acceptance is key. According to the "mailbox rule," an acceptance is effective upon dispatch (when it was mailed on July 13).
 - **Buyer's July 13 Rejection Telegram:** This was an **effective rejection** of the Seller's July 12 offer.
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Result of Seller's Action

The Seller's action against the Buyer for breach of contract will **fail**.

Although an acceptance is typically effective when dispatched (the mailbox rule), an important exception applies here. When an offeree sends both an acceptance and a rejection, the communication that the offeror **receives first** is controlling.

In this case, the Buyer sent an acceptance (the purchase order) by mail and a rejection by telegram on the same day. The Seller received the **rejection telegram on July 13**, but did not receive the acceptance until the following day, July 14. Because the Seller received the rejection first, the Buyer's power of acceptance was terminated. The purchase order that arrived on July 14 was legally ineffective and, at most, could be considered a new offer from the Buyer, which the Seller never accepted. Therefore, **no contract was ever formed**.