

# MILK PRICE CONTROL



A Report  
of the  
JOINT STATE GOVERNMENT COMMISSION  
1963

The Joint State Government Commission was created by Act of 1937, July 1, P. L. 2460, as last amended 1959, December 8, P. L. 1740, as a continuing agency for the development of facts and recommendations on all phases of government for the use of the General Assembly.

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## LETTER OF TRANSMITTAL

*To the Members of the General Assembly of the  
Commonwealth of Pennsylvania:*

House Resolution No. 86, Session of 1961, provides "The Joint State Government Commission is hereby directed to make a study of the Milk Control Law, namely, the act of April 28, 1937 (P. L. 417) as amended, to determine the present need for such legislation and the advantages and disadvantages and its effect on the economy of our Commonwealth. The Joint State Government shall file its report with the House of Representatives by January 15, 1962."

In accordance with House Resolution No. 86, Session of 1961, there is submitted herewith a report dealing with the administration of the Milk Control Law and "its effect on the economy of our Commonwealth."

HARRIS G. BRETH, *Chairman*

*Joint State Government Commission  
Capitol Building  
Harrisburg, Pennsylvania  
January 15, 1963*



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## SUMMARY OF FINDINGS

1. Pennsylvania, by virtue of its locational and economic characteristics, cannot for any extended period of time raise the level of average prices received by milk producers. The relation between average prices received by Pennsylvania dairy farmers and those received in other states has remained stable over the last half century.

2. Attempts by the Pennsylvania Milk Control Commission to enhance the economic position of farmers by means of high fluid-use producer prices have resulted in high consumer prices for fluid milk, low fluid milk consumption, and the stimulation of uneconomic milk production. Specifically:

(a) Fluid-use producer prices set by the Milk Control Commission are higher than in comparable markets in other states;

(b) Since 1946, fluid-use producer prices have been raised 45 percent and are currently at peak levels. In contrast, prices in Federally-regulated markets throughout the northeastern portion of the nation were raised 18 percent (on the average) over the same period and are presently lower than in 1948;

(c) The high average consumer prices for fluid milk in Pennsylvania are largely attributable to high fluid-use producer prices;

(d) Fluid milk consumption is lower in Pennsylvania than in comparable markets in other states;

(e) Pennsylvania production increased 52 percent over the last sixteen years, a greater percentage increase than in any northern dairy state. Much of this increased production was necessarily sold at a price below cost.

3. Retail price controls as administered in Pennsylvania have reduced consumption of fluid milk through the imposition of restrictions upon the choices available to milk consumers. The degree of restriction varies from area to area within the Commonwealth. Specifically:

(a) Quantity discounts are prohibited in Pennsylvania;

(b) Volume discounts (for purchases in larger containers) are smaller in Pennsylvania than in most milk markets;

(c) Limitation of the size of retail volume discounts has reduced fluid milk consumption in most Pennsylvania milk marketing areas by an estimated 10 percent or more.

4. Minimum retail price controls encourage transactions which though illegal are mutually profitable to the parties involved. Such transactions are allegedly widespread.



## PART I

### STATE AND FEDERAL REGULATION OF MILK PRICES

In his call for a special session of the General Assembly to convene on November 13, 1933, Governor Pinchot included the "regulation of the production, distribution and sale of milk and other dairy products." The special session responded January 2, 1934, with the first Pennsylvania milk price control legislation, known as the "Milk Control Board Law."<sup>1</sup> This act, patterned after the New York Milk Control Law of 1933, effective immediately upon final enactment, was to expire on April 30, 1935, but was extended for an additional two-year period,<sup>2</sup> and in 1937 it was replaced with the "Milk Control Law."<sup>3</sup> The law now in effect is substantially the same as

the original enactment of 1934. The Milk Control Law is not concerned with sanitary regulations, which are the responsibility of the Department of Agriculture and health agencies.

The statute is administered by the Milk Control Commission, consisting of three members appointed by the Governor (with the advice and consent of the Senate) for terms of six years. The member designated by the Governor as chairman receives an annual salary of \$13,000 and the other members receive \$12,500.

Currently, the total personnel of the Milk Control Commission numbers about 70, with about half of the employes having civil service status. Income of the commission is obtained from State appropriations and from license and permit fees and fines in the amounts shown in Table 1:

Table 1  
MILK CONTROL FUND RECEIPTS FOR FISCAL PERIODS  
ENDING JUNE 30, 1962 AND MAY 31, 1961

Licenses and Fees (1)	Fiscal Period Ending	
	June 30, 1962 (2)	May 31, 1961 (3)
Milk Dealers' Licenses	\$279,120.86	\$274,393.15
Milk Dealers' License Transfer Fees	22.00	7.00
Weighing or Measuring Permit Fees	4,110.00	4,030.00
Milk Testers' Certificate Fees	3,717.00	3,825.00
Milk Weighers' Certificate Fees	4,575.00	4,269.00
Milk Testers' and Weighers' Examination Fees	1,134.00	1,089.00
Total Licenses and Fees	\$292,678.86	\$287,613.15
Fines and Penalties		
Milk Control Act Fines	25,319.05	19,748.24
Other Receipts		
Restricted Receipts—Underpayments to Dairy Farmers	39,672.73	3,561.97
Refunds of Expenditures not Credited to Allocations	33.55	...
Refunds of Expenditures	187.50	...
Miscellaneous Revenue	210.75	13.80
Subtotal	\$358,102.44	\$310,937.16
Receipts from General Fund		
Appropriation	200,000.00	150,000.00
Grand Total	\$558,102.44	\$460,937.16

SOURCES: Pennsylvania Department of Revenue, *Monthly Revenue Report*, Transmittals to the Treasury Department, June 30, 1962; Auditor General, *Report of Examination, Milk Control Commission, for Fiscal Year Ending May 31, 1961*.

The law charges the commission with the supervision and the regulation of the entire milk industry. Specifically, the law requires:

1. The licensing of milk dealers,<sup>4</sup> the filing by each dealer of a performance bond guaranteeing payments to producers, and the issuance of weighing and testing permits;
2. The establishment of minimum prices below which milk may not be sold by producers to dealers, dealers to stores, and producers, dealers or stores to retail customers.<sup>5</sup>

Statutory requirements relating to the fixing of minimum prices provide, *inter alia*, that the commission shall:

1. ". . . ascertain, after a hearing in which all interested persons shall be given reasonable opportunity to be heard, the logical and reasonable milk marketing areas within the Commonwealth . . ."
2. ". . . maintain such prices for milk in the respective marketing areas as will be most beneficial to the public interest, best protect the milk industry of the Commonwealth, and insure a sufficient quantity of pure and wholesome milk to inhabitants of the Commonwealth, having special regard to the health and welfare of children . . ."
3. ". . . base all prices upon all conditions affecting the milk industry in each milk marketing area, including the amount necessary to yield a reasonable return to the producer, which return shall not be less than the cost of production and a reasonable profit to the producer, and a reasonable return to the milk dealer. . . . In ascertaining such returns, the commission shall utilize a cross-

<sup>4</sup> A dealer is defined in the act as any person who purchases milk from a producer—that is, a dairy farmer—for sale, shipment, storage, processing, or manufacturing: Milk Control Law §103, as amended 1941, July 24, P. L. 443.

<sup>5</sup> Section 402, as last amended 1959, November 21, P. L. 1587, provides that ". . . in cash sales of milk to consumers in containers owned and provided by the consumer, if he shall have produced all the milk on the farm where sold and such milk has at no time left the producer's farm prior to its sale to the consumer and he shall have neither purchased nor received milk from other producers or handlers and his total sales to consumers do not exceed two gallons to any one consumer in any one day, the producer so selling milk shall be exempt from the provisions of this act."

section representative of the average or normally efficient producers and dealers. . . ."<sup>6</sup>

In connection with the establishment of minimum producer prices, the commission may set different minimum prices based upon the ultimate use of milk—a long-established practice throughout the milk industry. In connection with the fixing of minimum wholesale and retail prices, the commission may classify by grade, type of container, method of delivery and other reasonable classifications.

The commission has divided the Commonwealth into 13 milk marketing areas, several of which are further divided into zones. Area 2, the Pittsburgh Milk Marketing Area, is the largest, serving a population of 3,200,000 in part or all of 13 counties.<sup>7</sup> Next in size is Area 1, Philadelphia, with a population of 2,300,000 in parts of Philadelphia, Montgomery and Delaware Counties. The remaining areas range in population size from about 1,000,000 in suburban Philadelphia (Area 1A) to 87,000 in Zone 2 of the Scranton-Wilkes-Barre Area. For each area or zone the commission sets minimum producer prices for the various use-classes of milk and minimum wholesale and retail prices for fluid milk and cream in various forms and quantities.

All milk which is shipped in interstate commerce is exempt from commission regulation at least in so far as any regulation would burden or obstruct the flow of interstate commerce. Section 1202 provides that:

"No provision of this act shall apply, or be construed to apply, to foreign or interstate commerce, except in so far as the same may be effective in accordance with the Constitution of the United States and the laws of the United States enacted pursuant thereto."<sup>8</sup>

<sup>6</sup> §801, as last amended, 1943, June 4, P. L. 879. Also see, *Colteryahn's Dairy v. Milk Control Commission*, 332 Pa. 15, 27 (1938).

<sup>7</sup> Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Lawrence, Mercer, Venango, Washington and parts of Clarion, Crawford and Westmoreland.

<sup>8</sup> In the recent case of *Milk Control Commission v. Penn Fruit Co., Inc.*, 78 Dauph. 96 (1961), exceptions overruled, 79 Dauph. 222 (1962), the Commonwealth Court discussed at length the limitations which the commerce clause of the Federal Constitution imposes upon the jurisdiction of the Milk Control Commission.

Since 1933, 29 states—including Pennsylvania—have enacted milk price control statutes. In 10 states the price control law was permitted to expire, was repealed, or was declared unconstitutional. Currently, 19 states<sup>9</sup> have statutes authorizing the fixing of minimum producer prices and 13<sup>10</sup> of the 19 authorize the fixing of minimum retail prices.

Under Federal legislation enacted in 1937, producers supplying milk to any milk marketing area served by interstate commerce<sup>11</sup> may petition the United States Secretary of Agriculture to establish a milk marketing order for such area. The Federal order defines the marketing area and establishes minimum producer prices (but not retail prices). Currently, minimum producer prices for milk are fixed by Federal orders in more than 80 milk marketing areas throughout the nation. Part of Pennsylvania is covered by the Philadelphia Federal Mar-

keting Area,<sup>12</sup> and a substantial volume of Pennsylvania-produced milk is shipped into the New York-New Jersey Federal Milk Marketing Area. Any producer who supplies milk to plants regulated under the Philadelphia or New York-New Jersey Federal milk orders must be paid at least the Federally-established prices for such milk.

The extension of Federal marketing orders throughout the nation has appreciably reduced the extent of state control of milk producer prices. The following tabulation shows, for selected states (both with and without state producer price-fixing authority) for 1960, milk delivered to plants regulated by Federal marketing orders as a percentage of the total volume of milk delivered to all milk plants in the state.<sup>13</sup>

State	Percentage
Delaware	60.9%
Illinois	48.5
Massachusetts	85.4
Michigan	77.9
New Jersey	90.8
New York	83.3
Ohio	63.5
Pennsylvania	60.5

The Philadelphia and New York-New Jersey markets account for practically all of the 60.5 percent of Pennsylvania milk subject to Federal marketing orders.

<sup>12</sup> The Philadelphia Federal Milk Marketing Area, consisting of Philadelphia, Delaware and parts of Bucks and Montgomery Counties, has a population of about 2,900,000, or one-fourth of the total population of the state.

<sup>13</sup> U.S. Department of Agriculture, *Supplement for 1960 to Federal Milk Order Market Statistics*. Supplement for 1960 to Statistical Bulletin No. 248, (Washington, D.C.).

<sup>9</sup> Alabama, California, Florida, Louisiana, Maine, Massachusetts, Mississippi, Montana, Nevada, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Utah, Vermont, and Virginia. In Georgia the 1937 milk price control statute was held unconstitutional in *Harris v. Duncan*, 208 Ga. 561 (1951); a 1952 Georgia enactment provides for a commission to "recommend" both producer and consumer prices.

<sup>10</sup> Alabama, California, Florida, Maine, Mississippi, Montana, Nevada, New Hampshire, New Jersey, Pennsylvania, Rhode Island, Vermont, and Virginia. Massachusetts and North Carolina have statutes authorizing a minimum retail price for milk in the event of an "emergency." Some states have suspended minimum prices for varying periods.

<sup>11</sup> A Federal District Court has held that the purchase from "out-of-state" sources of one-half of one percent of the total volume of milk in a marketing area is sufficient to authorize Federal jurisdiction: *Balazs v. Brannan*, 87 F. Supp. 119 (N. D. Ohio); earlier the U.S. Supreme Court held that Federal pricing orders are applicable to strictly "intrastate" milk if it is in competition with "interstate" milk: *U.S. v. Wrightwood Dairy Co.*, 315 U. S. 119 (1942).

## PART II

### PRODUCER PRICES AND PRICE CONTROL

#### Producer Prices in Selected States: 1910-1961

The center of milk production in the United States is the East North Central region, principally the states of Wisconsin and Minnesota. These two states, with but 4.1 percent of the total population of the country, account for approximately 24 percent of all milk sold to plants and dealers<sup>14</sup> in the United States. The populous eastern states of Pennsylvania, New Jersey, New York, Massachusetts and Connecticut, with 23.5 percent of the national population, account for about 17.5 percent of the total milk sold to plants and dealers. Given an excess supply of milk in the Wisconsin-Minnesota area and an insufficient local supply in the populous eastern seaboard states, the price of milk and other dairy products is low in the Wisconsin-Minnesota area and high in the eastern states. As a general rule, the price of milk increases as distance from Wisconsin-Minnesota increases, and among the states noted the price is highest in those states most distant from Wisconsin-Minnesota, namely, Massachusetts and Connecticut. In the absence of restrictive supply practices, the price of milk in any eastern state would tend to equal the price in Wisconsin-Minnesota plus transportation costs. Restrictions on milk supply (chiefly local health regulations) have apparently been of little over-all importance since actual milk prices closely follow the expected pattern. For example, in 1957 the United States Department of Agriculture reported:

“. . . in recent years, prices for fluid milk in markets east of the Rockies appear to follow an overall pattern suggested by transportation costs. A recent study by the Agricultural Marketing Service\* re-

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\*United States Agricultural Marketing Service, *Regulations Affecting the Movement and Merchandising of Milk*, 1955, p. 91.”

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<sup>14</sup> In 1961 milk production in the United States totaled 125.5 billion pounds, of which 8.4 billion was consumed on farms or fed to calves, 108.2 billion was sold to plants and dealers as whole milk, 6.9 billion was sold as farm-skimmed cream and 1.9 billion pounds was retailed by farmers. Unless otherwise specified, all volumes and prices in this section apply to whole milk sold to plants and dealers.

lating dealers' buying prices in 143 markets east of the Rockies with the price at Eau Claire, Wisconsin, for the period July 1953 to June 1954 found that the price increased an average of 1.92 cents per hundredweight per 10 miles increase in distance from the point in Wisconsin. The report also stated that rates charged by four large firms for transporting milk by tank truck ranged from 1.75 to 2.00 cents per 10 miles. However, even east of the Rockies, prices in some markets are influenced more by local supply-demand conditions than by prices in the Midwest. For example, during recent years, prices in New England averaged approximately the same as those in the Middle Atlantic region even though the New England States are more distant from the surplus producing area of the Midwest. Price relationships for fluid milk between Boston and New York City, the principal markets in each of these regions, are influenced by conditions in the surplus milk area in upstate New York and Vermont.”<sup>15</sup>

A comparison of average producer prices in Ohio and Pennsylvania serves to illustrate how closely actual price differences follow the expected pattern. The report observed that during the 1953-1954 period fluid milk [producer] prices tended to increase about two cents per hundredweight per 10 miles increase in distance eastward from Wisconsin. On this basis (assuming that the center of Pennsylvania and the center of Ohio are about 300 miles apart), the expected price difference between the two states would be about \$.60. During 1953, the average producer price in Ohio was \$4.25 per hundred pounds and in Pennsylvania \$4.84, for a difference of \$.59. During 1954 the Ohio price of \$3.87 per hundredweight differed by \$.66 from the average Pennsylvania price of \$4.53.

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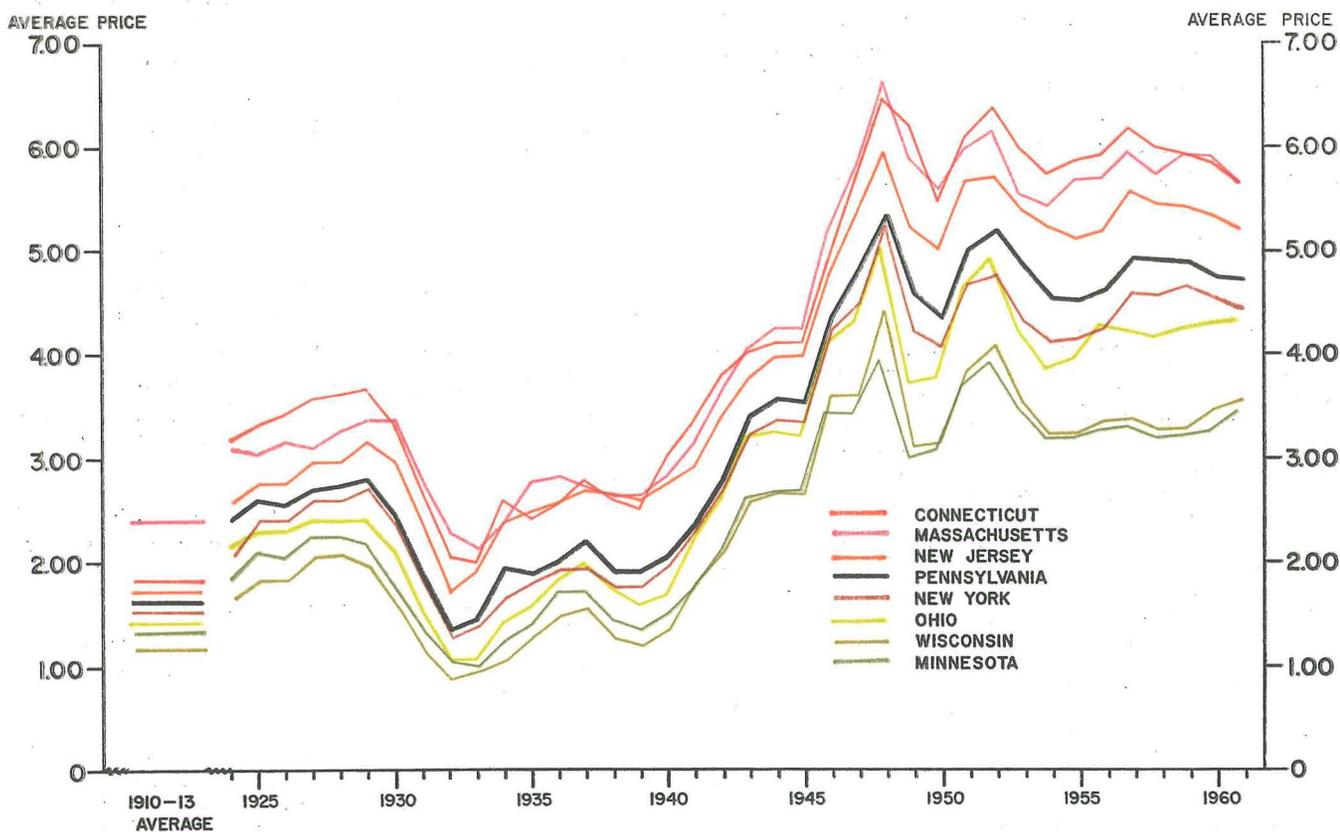
<sup>15</sup> U.S. Department of Agriculture, *The Demand and Price Structure for Dairy Products*, Technical Bulletin No. 1168, (Washington, D.C.) p. 207.

That distance from the major producing area is the major determinant of differences in average milk prices among the eastern states is clearly indicated on Chart I, which shows average producer prices for milk sold to plants and dealers for selected states for various periods from 1910 to 1961. Throughout the entire period 1910-1913 to 1961 the states farthest from Wisconsin and Minnesota had the highest average prices and average prices decreased as the distance to Wisconsin and Minnesota decreased. New York prices have been consistently lower than prices in Pennsylvania and other eastern states. The level of New York state prices is heavily influenced by the prices received in northern New York,

an area which is farther from the center of consumption—New York City—than all of Massachusetts, Connecticut, New Jersey, and a great part of Pennsylvania. Except for some shifting between Connecticut and Massachusetts, the ranking of the states of Ohio, Pennsylvania, New York, New Jersey, Connecticut and Massachusetts with respect to average milk producer prices has remained unchanged for 50 years.

Producer prices within Pennsylvania follow the same geographic pattern as prevails among the states. Producers in the eastern part of the Commonwealth receive a considerably higher price, on the average, than producers in

Chart I  
 AVERAGE BLEND PRICE PER 100 LBS. FOR MILK SOLD TO PLANTS AND DEALERS,  
 SELECTED STATES, 1910-1913 AND 1924 THROUGH 1961



SOURCES: U. S. Department of Agriculture, *Dairy Statistics Through 1960* (February 1962) and *Milk Production, Disposition, and Income 1960-61* (April 1962), (Washington, D. C.).

the western counties. In 1961, for example, producer prices in the eight southeastern counties averaged \$5.11 per hundredweight while in the six southwestern counties the average price was \$4.54.

Published average producer prices are subject to minor errors attributable to butter fat differentials<sup>16</sup> and transportation cost differentials.<sup>17</sup> There is, however, no reason to believe that these errors are of sufficient magnitude to affect the relationships illustrated in the chart.

### Mechanics of Producer Price Control

In Pennsylvania milk marketing areas under the jurisdiction of the Milk Control Commission, as in practically all major milk markets throughout the country whether under governmental control or not, a classified pricing system is used.

Under this system, milk of the same quality is sold at separate prices; the price obtained depends upon the ultimate use of the milk. There may be a number of use-classes of milk, but the essential distinction is between milk used in fluid form (usually designated as Class I) and milk used to manufacture products such as ice cream,

butter, cheese, evaporated milk, etc.<sup>18</sup> It is characteristic of the classified pricing system that the price for fluid milk (Class I) is maintained above the prices for all other classes of milk.

A producer receives what is commonly known as the "blend" price for all of the milk which he sells to a dealer or plant. The producer's blend price, usually computed monthly, is the weighted average of the various class prices, the weights being the volume of milk used in different classes. In all markets controlled by the Milk Control Commission and in the Philadelphia Federal order market, blend prices are determined on the basis of a "dealer pool." Under this type of "pooling," the producer's blend price depends upon the utilization pattern of the particular dealer to whom he sells his milk. During recent months the Class I price (milk for fluid use) in the typical milk marketing area in Pennsylvania was about \$6.20 per hundredweight and the various nonfluid class prices averaged about \$2.80 per hundredweight, both prices being for milk with a 3.5 percent fat content. Hence, a farmer shipping 3.5 percent milk to a dealer with a utilization pattern of 50 percent fluid and 50 percent nonfluid would have received a price of about \$4.50 for his milk.

Wide variations in dealers' use patterns will produce wide variations in blend prices received by producers selling to different dealers even though class prices remain unchanged. Dealers' utilization patterns do differ, with small dealers generally having proportionally more fluid use than larger dealers. It follows that a given class price structure, as well as changes in class prices, have a differential impact upon both producers and dealers.

In contrast to this "dealer" pooling arrangement, the New York-New Jersey Federal market and most other Federal order markets employ a "market pool" under which blend prices are determined on the basis of market-wide utilization patterns. Whether located in Pennsylvania or Vermont, producers supplying milk to

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<sup>16</sup> Milk is priced according to its butterfat content and milk with a higher fat content receives a higher price. Ordinarily, comparisons between average prices received by different groups of producers should be made on the basis of milk of the same fat content. A standard of 3.5 percent butterfat has been used in recent years by the United States Department of Agriculture. Data are not available to standardize the average prices shown in Chart I for the earlier years. However, the magnitude of butterfat differentials ordinarily observed would not materially affect the producer price comparisons.

<sup>17</sup> Data to adjust for transportation cost differentials in the milk price structure are seldom available. To illustrate briefly: one producer may "direct ship" his milk to a dairy's bottling or manufacturing plant in a large city while another may deliver his milk to a "country plant," from which the milk of a number of producers is hauled in bulk to the dairy's bottling or manufacturing plant. In the first instance, the price received by the farmer has not been reduced by any shipping costs but in the second case the "price" received by the farmer is net of the cost of hauling milk from the country plant to the city since this cost is borne initially by the dairy. Hence the published data for average producer prices are in fact a mixture of prices and costs. A change, over time, in milk shipping patterns or costs would produce a change in average price as ordinarily computed and published even though "prices," as such, remain unchanged.

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<sup>18</sup> Use-classes established by the Milk Control Commission differ somewhat among Pennsylvania markets. The typical classes are: Class I, fluid whole, skim or flavored milk; Class II, cream, ice cream, cottage cheese; Class III, butter and cheese except cottage cheese; and Class IV, evaporated, condensed or concentrated milk and milk used in the manufacture of milk chocolate.

the New York market will, aside from transportation or butterfat differentials, receive the same blend price. For any milk market, a market pooling system tends to stimulate uneconomic milk production to a greater degree than a system involving a number of dealer pools.<sup>19</sup>

Classified pricing originated as a device to stabilize milk markets throughout the year. The production of milk varies seasonally. Consumption of fluid milk, on the other hand, tends to be fairly stable in all seasons. Hence, if the supply of milk during the low production months in the fall and winter is just adequate for fluid consumption, the supply will be excessive during the peak production months in the spring and early summer. In the absence of classified pricing, milk prices would vary widely between seasons and producers would be in a weak bargaining position relative to dealers during the flush season.

The latitude of administrators of classified pricing systems in setting different use-class prices rests basically upon the different attributes of milk in various forms or products. Because of its bulk and perishability, fluid milk is costly to ship long distances. Local suppliers of fluid milk, therefore, are relatively protected from suppliers in distant producing areas. Manufactured products such as ice cream mix, butter, cheese, and evaporated and dry milk are both storable and concentrated and for the most part can be shipped long distances at a cost which is small relative to their value. Due to these factors, price-fixing agencies have considerable latitude in setting Class I or fluid-use prices but are greatly re-

stricted with respect to the level of manufacturing-use prices which they can effectively establish. Manufactured dairy products generally compete freely throughout the nation. A pricing agency in any state or Federal marketing area may not set the class prices for nonfluid uses above competitive prices if the total supply of milk in its market is to be sold. However, minimum nonfluid-use prices may be set below competitive levels.

To a varying degree, at different times and in different markets, attempts have been made to use the classified pricing system for the purpose of enhancing returns to milk producers. This policy is not likely to succeed and it usually results in higher consumer prices for fluid milk, lower fluid milk consumption, and the stimulation of uneconomic milk production.

The process which over a period of time brings about the defeat of attempts to use classified pricing to increase milk producers' returns above the level which economic conditions justify may be outlined briefly. Assume that in a given market, with a fluid-use price of \$5.00 and manufacturing-use prices averaging \$3.20, the supply of milk is utilized 70 percent fluid and 30 percent nonfluid. At these prices and use proportions the blend price would be \$4.46. Suppose that the pricing agency decides to bring about an improvement in the blend price by raising the fluid price from \$5.00 to \$5.40. The immediate effects, since the supply of milk will not appreciably increase at once, would be (i) a slight decrease in fluid consumption (to, say, 69/70's of its former volume) due to the higher price of fluid milk and (ii) a rise in the blend price to about \$4.72. The higher blend price will gradually encourage an increase in milk supplies, the greater part if not all of which will be used in nonfluid products. The pricing agency may then find it necessary to reduce the nonfluid price (say, to \$3.00) to induce dealers to accept the additional supplies of milk. Under these conditions a 6 percent increase in milk production (or supplies on the market, if milk is attracted from other markets) would reduce the blend price to \$4.56 and a 13 percent increase would bring the blend price back to its original level of \$4.46. The net results of the process are higher prices and lower consumption of fluid milk, greater production of manufactured products and little or no improvement in the producers' economic position.

<sup>19</sup> "Thus, the pooling procedures adjunct to the classified pricing system in the New York-New Jersey milkshed tend to provide an incentive for expanding the milkshed boundaries over time. Producers in distant areas who have no better alternatives are anxious to come under pool benefits. Handlers have no price-deterrent to obtaining pool status for outlying plants—even without Class I and Class II usage—since they will be compensated from pool funds for the difference between the blend price paid to producers and the Class III price in the market. (Even if the Class III price were set higher than prices paid by unregulated manufacturing plants, the handler might choose to pay this if most of his competitors are pool plants.) At the same time, these handlers are protecting their future supply of milk for manufacturing purposes since their producers are receiving the higher blend returns." Marketing Research Report No. 466, U. S. Department of Agriculture, Agricultural Marketing Service, Marketing Economics Research Division. *Class III Milk in the New York Milkshed; Part VI—Economic Analysis of Class III Pricing.*

## Pennsylvania Price Controls in Operation

The movements of class prices, blend prices and milk production strongly suggest that over the past 10 to 15 years, pricing activities in many markets supplied by Pennsylvania producers generally followed the pattern outlined above.

Except for parts of New Jersey and in a number of southeastern states, the Class I prices for milk are and have been for some years higher in Pennsylvania markets than in practically every other market in the nation. The following tabulation presents representative Class I prices in effect during the flush production period of 1961 for milk markets in Pennsylvania and in near-by states.

<i>Market</i>	<i>Representative Class I Price May-June 1961</i>
Pennsylvania (State-controlled portion)	\$5.80
Philadelphia (Federal Market)	5.50
Connecticut	5.35
Delaware—Wilmington	5.10
Maryland—Baltimore	5.30
Massachusetts	5.36
New Jersey (State-controlled portion)	5.87
New York—New Jersey	5.34
Ohio—Akron, Canton, Cleveland	4.80
Ohio—Columbus	4.20
Washington, D. C.	5.40
West Virginia—Wheeling	4.35

The Class I prices presented in the tabulation are for milk of 3.5 percent butterfat content delivered at the city market and hence are directly comparable among markets.

As of 1946 Class I prices in Pennsylvania were not significantly out of line with prices throughout the northeast. Since then, however, Pennsylvania Class I prices have been increased repeatedly in relation to prices in other markets and are currently at peak levels. In contrast, the average Class I price in Federal order markets in the northeastern part of the nation is lower

now than in 1948. In Table 2 are presented Class I prices in dollars and as a percent of 1946 Class I prices for all Pennsylvania markets combined, for the Pittsburgh market alone, and for several groups of Federal order markets, for even-numbered years 1946 to 1960.<sup>20</sup> Inspection of Table 2 shows that for the combined markets under the jurisdiction of the Pennsylvania Milk Control Commission<sup>21</sup> the Class I price was increased 45 percent between 1946 and 1960 and the price set for the Pittsburgh market was increased 50 percent. In contrast, average Class I prices in all northeastern Federal order markets were increased 18 percent over the same period and average Class I prices in the Federal order group containing the same markets throughout the period were increased 12 percent.<sup>22</sup> The Class I price in the New York Federal market was increased 28 percent and in the Philadelphia Federal market (not shown separately in Table 2) was increased 30 percent over the period 1946 to 1960.

<sup>20</sup> Later data are not available for the Federal markets. Due to lack of butterfat differentials for the earlier years, it was not feasible to obtain prices for milk of a standardized fat content so the prices are not strictly comparable between Pennsylvania and the Federal markets. For the purpose at hand—comparing changes in prices over time—the data are valid. At 3.5 percent fat content, the Pennsylvania price would be about \$.30 to \$.40 lower.

<sup>21</sup> A unique milk price control situation prevails in Philadelphia: The State Milk Control Commission sets class prices which on the average are higher than those set by the Federal Market Administrator. In all other known cases of concurrent State-Federal milk price control jurisdiction, state prices are identical with those set under Federal authority. While the legal validity of this practice has been questioned but not resolved (*see Note, "Government Regulation of Prices: A Study of Milk Control in Pennsylvania,"* 109 U. of Pa. L. Rev. 555, 572-575, (1961)), generally speaking, the economic effect has been minimized through the use by dealers of out-of-state markets for a portion of the milk purchased from Pennsylvania producers. At the present time, the State Milk Control Commission does not regulate the producer price of bulk milk ultimately sold out of state. The effect of this practice is to reduce the blend price of milk paid by most dealers to approximately the minimum set by the Federal administrator.

<sup>22</sup> Since new Federal markets are being formed and the boundaries of existing markets expanded, the *average price in all Federal markets* could change by virtue of the change in markets even though the price in any market remained unchanged. The constant-market average price, therefore, provides a check on the validity of the all-market average price.

In view of the fact that the Class I price for Pittsburgh (set by the Pennsylvania Milk Control Commission) has been increased more since 1946 than the Class I price in any of the other markets, it is instructive to compare Class I prices and "blend" prices for Pittsburgh and surrounding markets. The analysis previously presented suggests that, regardless of the level of Class I prices prevailing in the different markets, producers shipping milk to a western Pennsylvania market and producers shipping to eastern Ohio markets would not receive substantially different blend prices. This analysis is strikingly confirmed by the data in Table 3. The table shows Class I prices and blend prices for the same

two months in the past three years<sup>23</sup> for the Pittsburgh market and for three eastern Ohio Federal order markets: Columbus, Northeastern Ohio (Cleveland, Akron, and Stark County), and Wheeling (mostly in Ohio).<sup>24</sup>

<sup>23</sup> Since the monthly volumes of milk handled during the two most recent years are not yet available, calculation of annual averages is not feasible. In lieu thereof the table shows prices for a month (May) during the peak production season and for a month (September) during the low production period.

<sup>24</sup> One apparent discrepancy in the price data in Table 3 deserves comment. It may be observed that the blend price for Columbus for each September exceeds the Class I price. This would not be possible under the usual classified price system. In Columbus and several other Federal markets the pricing order provides for a seasonal adjustment fund. As an incentive for level production, deductions are made from pool funds during months of normally high production and are distributed to producers during months of normally low production. The blend prices shown in the table include these deductions or additions.

Table 2  
AVERAGE CLASS I MILK PRICES IN MARKETS CONTROLLED BY THE PENNSYLVANIA MILK CONTROL COMMISSION AND IN NORTHEASTERN FEDERAL ORDER MARKETS, EVEN YEARS 1946 TO 1960

Years	Pennsylvania Milk Control Commission (Milk of 4% Butterfat)				Federal Order Markets (Milk of 3.5% Butterfat)					
	All Pennsylvania Markets		Pittsburgh Market Only		All Federal Order Markets in Northeastern U.S. <sup>1</sup>		Federal Order Markets with Boundaries Unchanged Between 1946 and 1960 <sup>2</sup>		New York-New Jersey Federal Order Market <sup>3</sup>	
	Class I Price	Price as Percent of 1946 Price	Class I Price	Price as Percent of 1946 Price	Class I Price	Price as Percent of 1946 Price	Class I Price	Price as Percent of 1946 Price	Class I Price	Price as Percent of 1946 Price
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1946	\$4.39	100%	\$4.44	100%	\$4.23	100%	\$4.15	100%	\$4.33	100%
1948	5.61	128	5.70	128	5.36	127	5.14	124	5.66	131
1950	5.14	117	5.08	114	4.59	109	4.30	104	5.00	115
1952	6.13	140	6.20	140	5.33	126	5.26	127	5.50	127
1954	5.82	133	6.12	138	4.63	109	4.42	107	5.13	118
1956	5.88	134	6.21	140	4.82	114	4.67	113	5.14	119
1958	6.29	143	6.62	149	4.89	116	4.58	110	5.59	129
1960	6.37	145	6.65	150	4.99	118	4.66	112	5.55	128

<sup>1</sup> Markets in states of: Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Ohio, Indiana, Michigan, Illinois, and Wisconsin.

<sup>2</sup> Boston, Merrimack Valley (joined with Boston in 1959), Philadelphia, Toledo, Cincinnati, Chicago, and Fort Wayne.

<sup>3</sup> 201-210 mile zone price.

SOURCES: Pennsylvania Milk Control Commission, unpublished data; U. S. Department of Agriculture *Federal Milk Order Market Statistics 1947-56* and annual supplements to same, and correspondence with Federal Market Administrators.

Table 3  
CLASS I PRICES AND BLEND PRICES FOR 3.5 PERCENT MILK IN  
PITTSBURGH AND NEARBY MARKETS FOR MONTHS OF  
SEPTEMBER AND MAY 1960 THROUGH 1962

Market (1)	1962		1961		1960	
	Sept. (2)	May (3)	Sept. (4)	May (5)	Sept. (6)	May (7)
	Class I (Fluid) Prices					
Pittsburgh	\$6.17	\$5.78	\$6.17	\$5.85	\$6.27	\$5.85
New York-New Jersey <sup>1</sup>	5.57	4.66	5.47	4.73	5.76	4.86
Columbus, Ohio	4.50	4.33	4.68	4.39	4.56	4.13
Northeastern Ohio <sup>2</sup>	4.90	4.80	5.00	4.90	4.75	4.10
Wheeling, Ohio-West Virginia	4.82	4.37	4.98	4.55	4.90	4.33
	Blend Prices <sup>3</sup>					
Pittsburgh	4.24	3.75	4.48	3.76	4.55	3.74
New York-New Jersey <sup>1</sup>	4.42	3.56	4.49	3.71	4.64	3.64
Columbus, Ohio	4.67	3.62	4.86	3.71	4.77	3.44
Northeastern Ohio <sup>2</sup>	4.29	3.86	4.46	4.17	4.41	3.71
Wheeling, Ohio-West Virginia	4.47	3.94	4.71	4.14	4.59	3.84

<sup>1</sup> 201-210 mile zone price.

<sup>2</sup> Cleveland, Akron and Stark County.

<sup>3</sup> Price paid to all or the major group of producers in the market for all pooled milk.

SOURCE: U. S. Department of Agriculture, Crop Reporting Board, *Fluid Milk and Cream Report*, various issues, (Washington, D. C.).

Also included are data for the New York-New Jersey market since producers supplying this market are in geographic proximity to producers supplying Pittsburgh. Inspection of Table 3 shows that the Pittsburgh Class I price has been consistently higher—usually by a large amount—than the Class I price in any other market. Manifestly, the level of blend prices bears no relationship to the level of Class I prices. The Pittsburgh blend price as a general rule is lower than the blend prices for the other four markets. Moreover, the Pittsburgh blend price is declining relative to the blend prices in the other markets.

As previously observed, a milk price-fixing authority cannot set the nonfluid price above competitive levels if the total supply of milk is to be marketed. If there exist a number of nonfluid classes of milk, as is the case in Pennsylvania State-controlled markets, the prices of some could be set above competitive levels as long as the others were set at or below competitive prices. Without

an exhaustive study<sup>25</sup> of the markets for all dairy products, the determination of the relative level of nonfluid prices in Pennsylvania is not possible. There are several reasons, however, for expecting that most nonfluid class prices may be lower than competitive levels. In markets where retail milk prices are controlled by the same agency that fixes producer prices, an incentive exists to maintain narrow dealer return margins on fluid milk (and thereby keep consumer prices at the lowest level consistent with high Class I prices) and offset the low returns on fluid operations by higher returns on nonfluid uses. A second reason for expecting that some or all nonfluid class prices are usually below competitive levels is concisely summarized in a United States Department of Agriculture study of Class III (nonfluid) milk in the New York milkshed:

<sup>25</sup> See the six-volume study, U. S. Department of Agriculture, *Class III Milk in the New York Milkshed*, Marketing Research Reports Nos. 379, 396, 400, 419, 462, 466, (Washington, D. C.: January 1960 to March 1961).

"This conclusion . . . [that "Class III prices have been generally favorable to manufacturers utilizing Class III milk from the New York-New Jersey pool, and are lower than competitive levels."] should not be too surprising. In essence, the pricing agency is presented with two rules: (1) Prices must be fixed for all classes of milk, and (2) these prices must clear the market. The *highest* price that can be set for the lowest-value use (in this situation, the Class III price) is the price that would exist under competitive conditions in the sale of milk of that type. Errors of judgment, caused particularly by the lack of adequate data, make the administered price deviate from the competitive price. The possibility of such deviations forces the pricing agency to make its errors on the conservative or low side. To do differently would violate the second rule and not all milk would find a market."<sup>26</sup>

<sup>26</sup> *loc. cit.*, U. S. Department of Agriculture.

To conclude the analysis of classified pricing operations in Pennsylvania since 1946, it remains to be shown that milk production in Pennsylvania has increased relative to production elsewhere and that high Class I prices discourage the consumption of fluid milk.

Table 4 shows milk (including the milk equivalent of farm-separated cream) delivered to plants and dealers by producers in eight states as a percentage of deliveries in 1945 for selected years from 1945 to 1961. Milk deliveries of Pennsylvania producers increased 52 percent between 1945 and 1961. The next largest increase—42 percent—was recorded by New York state producers. The smallest increase—only 16 percent—occurred in both Ohio and Massachusetts.

The effect of high fluid milk prices upon consumption is treated in a subsequent section.

Table 4  
MILK<sup>1</sup> DELIVERED TO PLANTS AND DEALERS, SELECTED YEARS 1945 TO 1961,  
AS PERCENTAGE OF 1945 DELIVERIES, SELECTED STATES

Year	Pennsylvania	New York	New Jersey	Massachusetts	Connecticut	Ohio	Wisconsin	Minnesota
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
1945 <sup>a</sup>	100%	100%	100%	100%	100%	100%	100%	100%
1948	102	99	109	95	99	98	96	94
1950	113	113	120	102	114	103	99	96
1952	117	115	123	105	117	106	102	96
1954	127	123	130	113	125	116	110	104
1956	138	132	131	113	129	117	115	115
1958	140	131	128	111	129	111	123	121
1960	149	136	138	111	132	111	121	126
1961 <sup>b</sup>	152	142	136	116	133	116	124	129

<sup>1</sup> Includes milk-equivalent of farm-skimmed cream.

<sup>a</sup> The 1945 or base-year volumes were, in million pounds: Pennsylvania, 4,280; New York, 7,092; New Jersey, 796; Massachusetts, 601; Connecticut, 510; Ohio, 4,370; Wisconsin, 13,847; Minnesota, 7,700.

<sup>b</sup> Preliminary.

SOURCES: U. S. Department of Agriculture, *Dairy Statistics Through 1960*, Statistical Bulletin No. 303, (February 1962) and *Milk Production, Disposition, and Income 1960-61*, (April 1962), (Washington, D. C.).

## PART III

### RETAIL PRICES AND PRICE CONTROLS

The Pennsylvania Milk Control Commission establishes the minimum wholesale and retail prices at which various kinds of milk in specified containers may be sold and regulates prevailing trade practices.

The regulatory activities of the Commission determine alternative ways fluid milk may be purchased and the associated prices. These alternatives and prices together

with the pattern of consumer choices determine the average fluid milk price paid by the consumers. Both the average price and the range of price alternatives affect the total consumption of fluid milk. Fluid consumption, in turn, is an important factor in determining the blend price paid to the producer.

## Alternatives Available to Consumers

Most whole milk for home consumption, whether home delivered or obtained in stores, is purchased in quart, half-gallon or gallon containers. Among these alternatives, milk in quart containers delivered to the home is generally the highest in price, and milk in gallons purchased at the store is the lowest in price per quart-equivalent.<sup>27</sup>

<sup>27</sup> The term "price per quart-equivalent" is used throughout to emphasize that price relates to a quart of fluid whether in quart, half-gallon or gallon containers. The price per quart-equivalent of a gallon of milk selling for 80¢ would be 20¢.

Table 5 presents for selected milk markets<sup>28</sup>, the price of a quart of home-delivered whole milk, and the price per quart-equivalent of milk in the largest container available in stores, as of August 1962.<sup>29</sup> The range between these two prices, which may be called the "maximum volume discount," is shown in column (4) of the table.

<sup>28</sup> The data are presented for all milk markets as far south as Norfolk, Virginia, and as far west as Green Bay, Wisconsin, for which the prices were published in the *Fluid Milk and Cream Report* of the United States Department of Agriculture.

<sup>29</sup> Prices shown are for homogenized Vitamin D milk, unless otherwise indicated.

**Table 5**  
**LOWEST REPORTED PRICE PER QUART-EQUIVALENT OF HOME-DELIVERED SINGLE QUARTS, AND STORE-PURCHASED MILK IN LARGEST CONTAINER AVAILABLE, AND MAXIMUM VOLUME DISCOUNT FOR HOMOGENIZED VITAMIN D MILK (EXCEPT WHERE OTHERWISE NOTED), FOR SELECTED MILK MARKETS, AUGUST 1962**

Milk Market	Lowest Reported Price Per Quart-Equivalent		Maximum Volume Discount
	Home-Delivered Single Quart	Store-Purchased Largest Container	
(1)	(2)	(3)	(4)
<i>New England</i>			
Maine			
Augusta*	27.0¢	26.5¢	.5¢
Portland*	28.0	26.5	1.5
New Hampshire			
Concord*	27.0 <sup>a</sup>	26.0	1.0
Manchester-Nashua	27.5 <sup>a</sup>	27.0	.5
Portsmouth*			
Vermont			
Bellows Falls*	24.0 <sup>a</sup>	22.5	1.5
Burlington*	24.0 <sup>a</sup>	22.0	2.0
Massachusetts			
Boston*	29.0 <sup>b</sup>	19.5 <sup>b</sup>	9.5
Lowell-Lawrence*	29.0	27.5	1.5
New Bedford*	29.0	22.0	7.0
Springfield*	31.0	18.8	12.2
Worcester*	30.5 <sup>a</sup>	19.0	11.5
Rhode Island			
All areas*	28.0 <sup>a</sup>	19.8	8.2
Connecticut			
Hartford	30.0	18.8	11.2
New Haven	31.0	23.5	6.5
<i>Middle Atlantic</i>			
New York			
Albany	28.0 <sup>a</sup>	19.8	8.2
Binghamton	28.0 <sup>a b</sup>	24.5 <sup>b</sup>	3.5
Buffalo	28.5 <sup>a</sup>	23.0	5.5
New York	31.5	21.2	10.2
Rochester	29.0 <sup>a</sup>	23.5	5.5
Schenectady	29.0 <sup>a</sup>	19.8	9.2
Syracuse	30.0	24.5	5.5

New Jersey			
Atlantic City*	31.5	27.2 <sup>b</sup>	4.2
Camden*	29.0	26.5	2.5
Northern N. J.*	31.0	28.0	3.0
Trenton*	27.5	24.5 <sup>b</sup>	3.0
Pennsylvania			
Erie*	27.0	24.5	2.5
Harrisburg*	25.0 <sup>b</sup>	24.0 <sup>b</sup>	1.0
Johnstown*	26.0	25.0	1.0
Philadelphia*	28.0	22.5 <sup>b</sup>	5.5
Pittsburgh*	28.0	24.0 <sup>b</sup>	4.0
Reading*	26.5	24.5	2.0
Scranton*	27.0	25.0	2.0
<i>East North Central</i>			
Ohio			
Akron	24.0	18.0	6.0
Canton	25.0 <sup>a</sup>	18.0	7.0
Cincinnati	26.0 <sup>a</sup>	20.0	6.0
Cleveland	24.0 <sup>a</sup>	18.0	6.0
Columbus	25.0	17.2	7.8
Dayton	25.0	14.8	10.2
Toledo	24.0	19.5	4.5
Indiana			
Evansville	24.0	19.5	4.5
Fort Wayne	24.0	18.5	5.5
Gary	32.0	22.2	9.8
Indianapolis	25.0	17.2	7.8
South Bend	25.0	22.0	3.0
Illinois			
Chicago	29.5	22.2	7.2
Michigan			
Battle Creek	23.0	20.5	2.5
Detroit	26.0 <sup>a</sup>	25.0	1.0
Grand Rapids	23.0 <sup>a b</sup>	16.5 <sup>b</sup>	6.5
Kalamazoo	25.0 <sup>a b</sup>	22.0 <sup>b</sup>	3.0
Lansing	26.0	22.0	4.0
Wisconsin			
Green Bay	23.0 <sup>a</sup>	20.8	2.2
Milwaukee	25.0	18.2	6.8
<i>South Atlantic</i>			
Delaware			
Wilmington	29.5	26.0	3.5
Maryland			
Baltimore	29.5	25.5	4.0
District of Columbia			
Washington	29.0 <sup>a</sup>	22.5 <sup>b</sup>	6.5
Virginia			
Alexandria-Arlington*	29.0 <sup>a</sup>	22.5 <sup>b</sup>	6.5
Norfolk-Portlow*	27.0 <sup>a</sup>	27.0	.0
Richmond*	27.0 <sup>a b</sup>	25.0 <sup>b</sup>	2.0
Roanoke*	26.0	26.0	.0
West Virginia			
Huntington	32.0	24.5	7.5
Wheeling	28.0	22.2	5.8
Kentucky			
Louisville	26.0	19.0	7.0

\* Markets in states with retail price fixing authority.

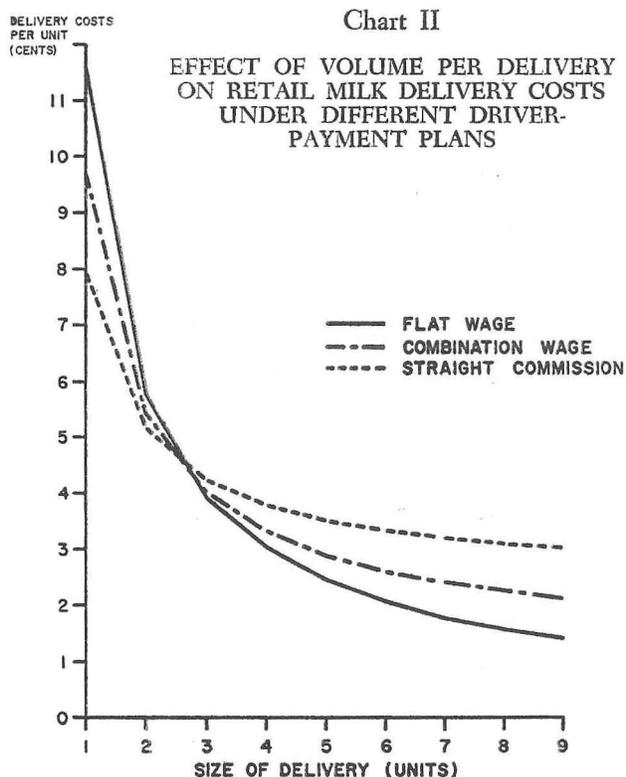
<sup>a</sup> Quantity discount available.

<sup>b</sup> Homogenized, not vitamin D.

SOURCE: U. S. Department of Agriculture, *Fluid Milk and Cream Report*, August 1962.

The table indicates that the maximum volume discount per quart-equivalent varied within Pennsylvania from 1¢ per quart in Harrisburg and Johnstown to 5.5¢ in Philadelphia. In the states without retail price control, 57 percent of the localities shown had a larger maximum volume discount (averaging 7.7¢) than any of the Pennsylvania localities; and 91 percent had a larger maximum volume discount (averaging 6.4¢) than any of the Pennsylvania localities other than Philadelphia and Pittsburgh.

In addition to volume discounts, "quantity discounts" prevail in 40 percent of the markets shown in Table 5 located in states other than Pennsylvania. Quantity discounts on home-delivered milk are related to the number of identically sized units (quarts, half-gallons, gallons) purchased per delivery or per week or per month. Quantity discounts reflect the fact that delivery costs decrease markedly (see Chart II) as the size of delivery increases. No quantity discounts are permitted under Pennsylvania retail price control regulations.



SOURCE: Virginia Agricultural Experiment Station, *Milk Delivery Practices—Alternatives and Costs* (Blacksburg, Virginia: July 1960).

Table 6 presents minimum retail prices of whole milk fixed by the Milk Control Commission as of April 1962. The table indicates that:

1. The minimum price for a quart of home-delivered, 4 percent or less butterfat, nonhomogenized, nonvitamin D milk varied from 24.5 cents in Area 14 to 27 cents in Areas 2 and 7.
2. In Area 5, zone 2, the minimum price of a quart of milk sold in stores was the same as the price of home-delivered milk, in ten regions it was one cent lower and in three regions it was 1.5 cents lower.
3. In seven areas milk could be sold in half-gallon containers at a lower price per quart-equivalent than milk sold in quart containers. This was prohibited in the other seven.
4. In the areas where milk could be sold at lower prices in half-gallon containers, the price per quart-equivalent in half-gallon containers varied from one-half cent to two cents lower than in quart containers.
5. Three of these areas were also permitted to sell milk in gallon containers at prices of 2.5 cents to 3 cents per quart-equivalent lower than milk sold in quarts.
6. The over-all price range within an area for non-homogenized nonvitamin D milk varied from zero in Area 5, zone 2, to 4.5 cents per quart-equivalent in Areas 1 and 1A.
7. In seven areas the minimum price of vitamin D milk was one cent per quart higher than for nonvitamin D milk; and in six, there was no minimum price differential for vitamin D milk.

With few exceptions, principally in Philadelphia where some higher prices have prevailed, milk has been sold throughout the Commonwealth at regulated minimum prices. The fact that actual prices and the fixed minimum prices are generally identical indicates that retail price controls are effective in eliminating milk price competition in the open market.

Price controls as administered in Pennsylvania restrict the alternatives available to consumers in relation to type of container, method of purchase, type of milk, and quantity discounts. The degree of restriction varies from area to area within the Commonwealth.

In addition, minimum price controls encourage transactions which though illegal are mutually profitable to the parties involved. Such transactions are allegedly widespread.<sup>30</sup> In commenting upon the prevalence of illegal

<sup>30</sup> "Some dairies are candid about the situation and admit that violations are numerous. . . . Although some voiced the opinion that violations are at a minimum, with only slight amounts of illegal activity throughout the state, . . . a [Milk Control Commission] attorney states that illegality is rampant and that a new evasive device appears as soon as another is halted." (citations omitted). See Note "Government Regulation of Prices: A Study of Milk Control in Pennsylvania," 109 U. of Pa. L. Rev., 555, 604 n. 369 (1961).

transactions between dealers and stores, an article in the University of Pennsylvania Law Review concludes:

"All of these 'deals' and schemes to evade the Commission's minimum prices would not be worthwhile, however, if the parties were not certain of the price to be obtained upon the ultimate sale to the milk drinker. Thus the consumer, who stands last in the distributive line and pays the high minimum price, in effect subsidizes the illegal activity accompanying his milk through the channels of distribution."<sup>31</sup>

<sup>31</sup> *Ibid.*, at 605.

Table 6  
MINIMUM QUART PRICE OF HOME-DELIVERED, NONHOMOGENIZED, NONVITAMIN-D MILK AND PER QUART PRICE DIFFERENTIAL BY SIZE OF CONTAINER, PLACE OF DELIVERY AND TYPE OF MILK, BY MILK MARKETING AREA, PENNSYLVANIA, APRIL 1962

Area No.	Milk Marketing Area	Minimum Quart Price Home-Delivered 4 Percent or Less Butterfat Nonhomogenized Nonvitamin D	Per Quart Price Differential*							
			Home-Delivered		Store-Purchased			Homo- genized	Vitamin D	Grade A
(1)	(2)	(3)	½ Gallon	Gallon	Quart	½ Gallon	Gallon			
1	Philadelphia	26.0¢	-2.0¢	-3.0¢	-1.5¢	-3.5¢	-4.5¢	0¢	0¢	+3.0¢
1A	Suburban Philadelphia	26.5	-2.0	-3.0	-1.5	-3.5	-4.5	0	0	+3.0
2	Pittsburgh	27.0	-1.5	-2.5	-1.0	-3.0	-4.0	0	0	+2.0
4	Schuylkill	26.5	-0.5	0	-1.0	-1.5	0	0	0	+2.0
5 Zone 1	Scranton	26.0	0	0	-1.0	0	0	0	+1.0	+2.0
5 Zone 2	Scranton	25.0	0	0	0	0	0	0	+1.0	+2.0
6	Lehigh	25.5	-0.5	0	-1.5	-2.0	0	0	**	+2.0
7	Erie	27.0	-1.5	0	-1.0	-2.5	0	0	0	+2.0
8	Harrisburg	25.0	0	0	-1.0	0	0	0	+1.0	+2.0
9	Johnstown-Altoona	26.0	-0.5	0	-1.0	-1.5	0	0	0	+2.0
12	York	25.0	0	0	-1.0	0	0	0	+1.0	+2.0
13	Williamsport-Sayre-Athens	25.5	0	0	-1.0	0	0	0	+1.0	+2.0
14	Lancaster	24.5	0	0	-1.0	0	0	+1.0	+1.0	+2.0
15	Reading-Berks	25.5	0	0	-1.0	0	0	0	+1.0	+2.0

\* As compared with quart price, home-delivered, 4 percent or less butterfat, nonhomogenized, nonvitamin D milk.

\*\* Price not listed.

SOURCE: Official General Orders of the Pennsylvania Milk Control Commission.

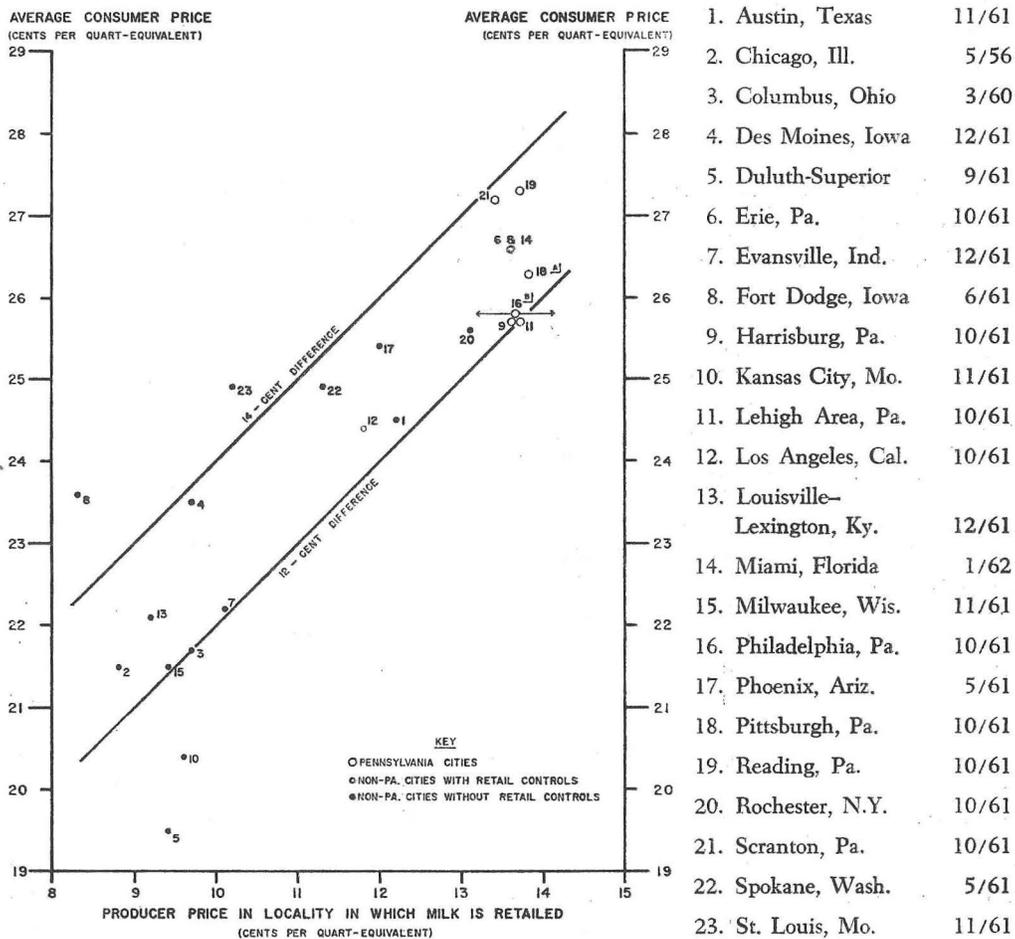
### Average Price Paid by Consumers

The prevalent practice of making intermarket milk price comparisons in terms of the price of a home-delivered quart is deceptive because it fails to take purchase patterns into account. For instance, it is misleading to compare milk prices in Pittsburgh and St. Louis, Missouri, on the basis of the price of home-delivered quarts because in St. Louis, unlike in Pittsburgh, home-delivered quarts account for but a small fraction of the total milk purchased for home consumption. Valid intermarket

comparisons must be based upon the (weighted) average price which takes into account both volumes and prices of milk purchased in different container sizes and quantities and in different outlets. The average price in Pittsburgh was 26.3 cents per quart-equivalent when the price of a home-delivered quart was 28 cents, whereas in St. Louis the average price was lower (24.9 cents) when the home-delivered price was higher (29 cents).

Chart III presents the average consumer price for milk in relation to the Class I producer price for 23 milk mar-

Chart III  
AVERAGE PRICE OF WHOLE MILK PAID BY CONSUMERS FOR HOME CONSUMPTION, IN RELATION TO CLASS I PRODUCER PRICE IN SAME AREA, 23 MILK MARKET AREAS



<sup>a</sup> Some milk retailed in Pittsburgh is believed to be purchased in Ohio at lower prices.

<sup>b</sup> The producer price in Philadelphia is between 13.2 cents and 14.1 cents per quart-equivalent.

SOURCES: Published and unpublished reports of Federal Milk Market Administrators relating to consumer purchasing patterns; U. S. Department of Agriculture, *Fluid Milk and Cream Report*, for periods corresponding to consumer purchasing pattern studies; Philadelphia Federal Market Order; and cream and butter price data furnished by Pennsylvania Milk Control Commission.

kets including seven in Pennsylvania.<sup>32</sup> The diagonal lines labeled "12 cent difference" and "14 cent difference," indicate that for all except four of the markets outside of Pennsylvania the difference between producer price and average consumer price was between 12 and 14 cents. All seven Pennsylvania markets were within or below this range.

The chart suggests that currently the relatively high average consumer prices in Pennsylvania are largely attributable to high Class I producer prices rather than to high retail margins. However, as was noted above, the *range* of consumer price alternatives is less than would be expected in the absence of retail controls.

Taken together, these two findings imply that in the absence of retail price controls and without changing producer prices, the single quart home-delivered price would probably be higher and the lowest quart-equivalent price in stores would probably be lower than at present. Thus those consumers who, in the absence of retail controls, would buy lower priced milk in stores, are now, in effect, subsidizing other consumers who would buy higher priced home-delivered milk.

#### Effect Of Retail Price Range On Milk Consumption

It is well established that milk consumption increases as income increases and decreases as price increases.<sup>33</sup>

<sup>32</sup> The average Class I producer price is not reported for Philadelphia but is between the Federal market order minimum of 13.2 cents and the Pennsylvania Milk Control Commission minimum price of 14.1 cents per quart-equivalent.

<sup>33</sup> U. S. Department of Agriculture, *The Demand and Price Structure for Dairy Products*, Technical Bulletin No. 1168, (Washington, D. C.: 1957).

Table 7 shows per capita consumption (in pounds) of whole milk in 1958 and in 1961 for the two Pennsylvania markets for which data are available and for selected city markets in other states. Since family income levels are comparable in the nine markets the observed differences in milk consumption may be attributable, in the main, to price differences. To ascertain more precisely the effect of milk prices upon consumption, per capita milk consumption was analyzed for 34 milk marketing areas in relation to average retail price, retail price range and median family income.<sup>34</sup>

<sup>34</sup> The relationship was estimated to be as follows:

$$C = 308.05 - 6.73A + 8.82R + .017I$$

Where:

C = consumption of fluid milk per capita, 1960 (pounds per year).

A = estimated average retail price of whole milk, March 1960 (cents per quart-equivalent).

R = range of retail prices for whole milk in quart or larger containers depending on size of container and place of purchase, March 1960 (cents per quart-equivalent).

I = median family income, 1959 (dollars per year).

All areas were included for which measurements were available for the characteristics considered. The estimated standard deviations of the co-efficients of A, R, and I, were 2.75, 2.98 and .00957 respectively. The variables considered accounted for an estimated 44 percent of the variation in the per capita consumption. The data were obtained from: U. S. Department of Agriculture, *Fluid Milk and Cream Report*, various issues; U. S. Bureau of the Census, *United States Census of Population 1960; U. S. Summary: General Population Characteristics*, and sources noted on Chart III, *supra*.

Table 7  
PER CAPITA CONSUMPTION OF WHOLE MILK PRODUCTS,  
SELECTED MARKETS, 1961 AND 1958

Market	Pounds of Whole Milk	
	1961	1958
(1)	(2)	(3)
Allegheny County, Pennsylvania	247	271
Philadelphia, Pennsylvania	249	262
Boston, Massachusetts	332	316
Chicago, Illinois	277	294
Columbus, Ohio	290	332
Minneapolis-St. Paul, Minnesota	342	335
New York, New York	299	320
Rochester, New York	284	296
Wilmington, Delaware	295	308

SOURCES: U. S. Department of Agriculture, *Fluid Milk and Cream Consumption 1956-58 and Fluid Milk and Cream Report, May 1962.*

From this analysis it is estimated that a one cent increase in the *average* retail price with no change in the price range would result in a decrease in per capita consumption of about 6.7 pounds per year.

The analysis also indicates that a one cent increase in the *range* of retail prices with no change in the average price is associated with an estimated 8.82 pounds per year increase in per capita consumption.

Using the latter relationship, it is estimated that an increase in the range of whole milk prices throughout the state to the Philadelphia range of 5.5 cents (which was the maximum range in the state in April 1962) while keeping the average price constant, would result in an increased milk consumption in the state (exclusive of Philadelphia) of about 220 million pounds per year. An additional increase of one cent in the retail price range (keeping average price constant) would be associated with an estimated 100 million pounds increase in consumption.

#### **Effect of the Volume of Fluid Milk Consumption on Producer Blend Prices**

An increase in consumption of fluid milk, with a fixed total supply of milk and with no change in producer class prices, increases the blend prices received by producers. An increased consumption of 220 million pounds per year in Pennsylvania (exclusive of Philadelphia) would represent an increase of 27 pounds per capita per year, or roughly ten percent. Assuming that in Pennsylvania markets (other than Philadelphia) 60 percent of all milk is currently used for Class I purposes, an increase of ten percent (from 60 to 66 percent), could be expected to result in an increase of about 4 percent in producer blend prices.

It is likely that the blend price increase would be gradual, in response to a gradual increase in consumption. Since, historically, milk production has tended to increase in response to increasing blend prices, milk production would probably not remain constant long enough for the above estimated increase in blend prices to be fully realized. However, an increased range in retail prices could (fully or partially) offset the (temporary) reduction in blend prices occasioned by decreases in producer class prices.