

Purpose of the Statute / Process for Price Negotiations:

To enable grower representatives and seed dealers to openly discuss prices in accordance with the requirements of federal antitrust laws and the Oregon Antitrust Act. To ensure antitrust immunity for this process, it has to meet two clear doctrines established by federal law. First, the statute providing the immunity must clearly identify the anticompetitive activities that will be permitted (in this case, price setting), and that this is intended to displace competition. Secondly, the process must be "actively supervised" by a state agency which has the express authority and responsibility to review the process and activities of the parties, exercise independent judgment and control so that the review and approval of prices is more than "stamping" the agreement of the parties, supervise and guide discussions to prevent antitrust violations, receive minutes of all meetings, approve or disapprove prices, and evaluate complaints from affected third parties who may challenge the anticompetitive conduct.. The purpose of the active supervision is to "determine whether the State has exercised sufficient independent judgment and control so that the details of the rates or prices have been established as a product of deliberate state intervention, not simply by agreement among private parties." -U.S. Supreme Court, *FTC v. Ticor Title Company* (504 U.S. 621, 634 (1992))

