

NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

FOR THE

MIRROR INDUSTRY

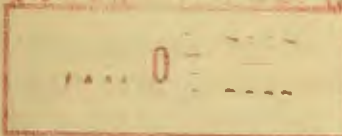
AS SUBMITTED ON AUGUST 28, 1933

REGISTRY No. 1029—02

**The Code for the Mirror Industry
in its present form merely reflects the proposal of the above-mentioned
industry, and none of the provisions contained therein are
to be regarded as having received the approval of
the National Recovery Administration
as applying to this industry**



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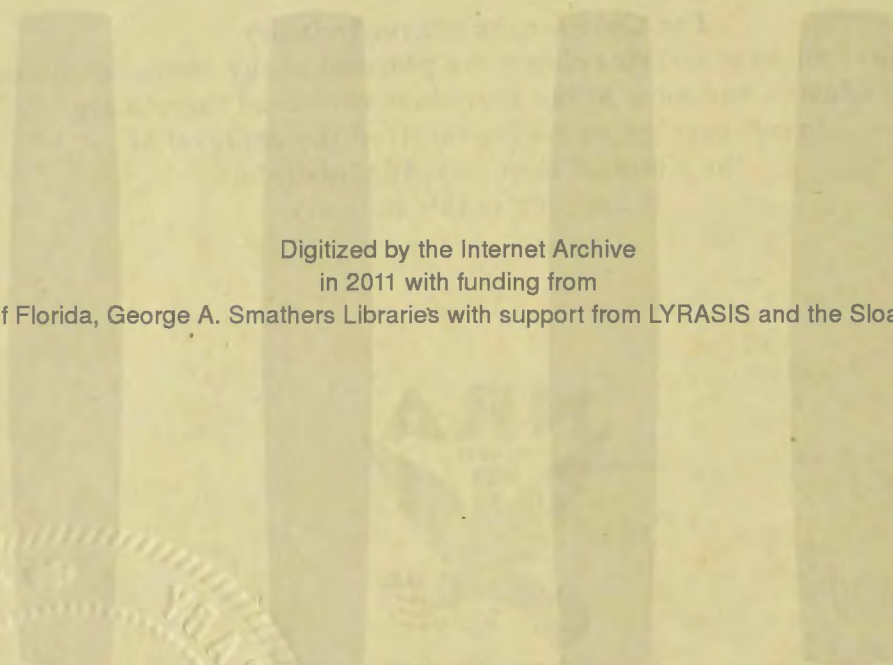
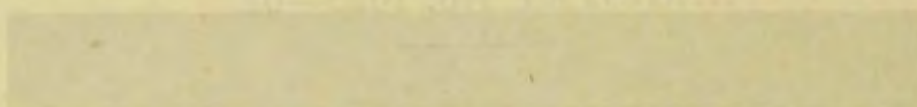
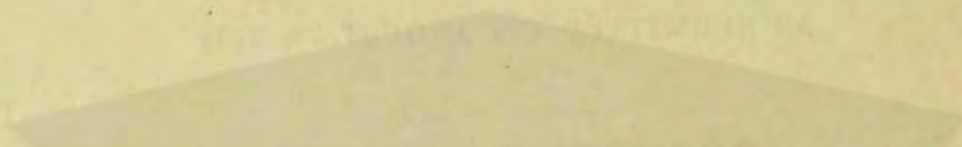
UNITED STATES DEPARTMENT OF JUSTICE

CODE OF FAIR COMPETITION

SECTION 5

UNFAIR METHODS OF COMPETITION

SECTION 5(a)



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UNITED STATES DEPARTMENT OF JUSTICE
ANTITRUST DIVISION
WASHINGTON, D. C. 20530

PROPOSED CODE OF FAIR COMPETITION FOR THE MIRROR MANUFACTURING INDUSTRY

**AS APPROVED BY THE MEETING OF THE MIRROR MANUFACTURERS
ASSOCIATION AT WHITE SULPHUR SPRINGS, WEST VIRGINIA**

ARTICLE I—PURPOSE

The purpose of this Code is—

1. To assist in carrying into effect the declared policy of Congress embodied in Section 1 of Title I of the National Industrial Recovery Act.

2. To assist in increasing the purchasing power of the people of the United States through increase in employment and the payment of adequate wages to those employed.

3. To assist in the rehabilitation of industry—

(a) By the elimination of unfair competitive practices within the Mirror Manufacturing Industry.

(b) By the elimination of sale of goods below cost.

ARTICLE II—PARTICIPATION

Participation in this Code and any subsequent revision of or addition to the Code shall be extended to any person actively engaged in the manufacture of mirrors.

ARTICLE III

A. LABOR

1. Employees in the Mirror Manufacturing Industry shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

(a) It is clearly understood that the foregoing paragraph does not impair in any particular the constitutional rights of the employee and employer to bargain individually or collectively as may be mutually satisfactory to them; nor does it impair the joint right of employer and employee to operate an open shop.

(b) Nothing in this code is to prevent the selection, retention, and advancement of employees on the basis of their individual merit, without regard to their affiliation or nonaffiliation with any labor organization.

2. No employee and no one seeking employment shall be required as a condition of employment to join any company union or to re-

frain from joining, organizing, or assisting a labor organization of his own choosing.

3. Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

4. Maximum hours of work for employees in the Mirror Manufacturing Industry shall be 40 hours per week average per annum.

5. The minimum wage paid to employees in the Mirror Manufacturing Industry shall be 30¢ per hour.

B. PRICES

1. All units of the Mirror Manufacturing Industry shall be required to use an adequate cost-accounting system in determining cost.

Cost shall include cost of material based on manufacturers' published schedules for materials and glass in cut sizes, handling, hauling, processing, freight, selling, management, rent, overhead, insurance, and imputed interest on investment at 6%.

2. Sales below cost shall constitute a violation of this Code.

C. STATISTICS

1. In order to provide data necessary for the administration of this Code under the National Industrial Recovery Act, the Mirror Manufacturing Industry will undertake to supply such data as is required by the Administrator.

D. UNFAIR TRADE PRACTICES

1. Rules appended in Exhibit A.

ARTICLE IV—ENFORCEMENT

1. This Code shall be policed by the Mirror Manufacturers Association.

2. Violations shall be reported to the Secretary.

3. The Secretary shall make an investigation of the complaint, either directly or through a committee appointed by the Secretary for that purpose in the vicinity of the complaint.

4. The Secretary, or the committee referred to in paragraph 3 above, shall endeavor to adjust the complaint and secure a discontinuance of the violation complained of.

5. If the complaint is not satisfactorily adjusted and the practice complained of is not discontinued, the Secretary, with the approval of the committee named in Article V, shall report any violation of this Code, with evidence, either to the President or to the United States District Attorney.

ARTICLE V—SUPERVISION

1. To effectuate the purposes of this Code a Committee of Five shall be named by the Executive Committee of the Mirror Manufacturers Association.

2. This committee is authorized—

(a) To present this Code to the President, or
 (b) To cooperate with other branches of the Flat Glass Industry in formulating and presenting to the President a Code.

(c) To have general supervision of carrying out the provisions of this Code, subject to the authority of the Executive Committee of the Mirror Manufacturers Association.

(d) After approval by the Association, to present to the President recommendations based on conditions in the industry as they may develop from time to time, which will tend to effectuate the operation of the provisions of this Code and the policies of the National Industrial Recovery Act. Such recommendations, when approved by the President, shall have the same force and effect as any other provisions of this Code.

(e) To cooperate with the President in making investigations as to the functioning and observance of any provisions of this Code on complaint by any person affected or as provided in Article IV.

ARTICLE VI—GENERAL

1. No provision in this Code shall be interpreted or applied in such a manner as to—

- (a) Promote monopolies,
- (b) Permit or encourage unfair competition,
- (c) Eliminate or oppress small enterprises, or
- (d) Discriminate against small enterprises.

2. The President may from time to time cancel or modify any order, approval, license, rule, or regulation issued in connection with this Code.

3. Any information filed, or otherwise collected under this Code, may be made available to the President or, in case of charges of violation of this Code, to the Supervising Committee of Five provided for under Article V. Otherwise, all information contained in reports made under Article III, Subarticle C, Section 1, shall be held as strictly confidential by the Secretary of the Mirror Manufacturers' Association.

4. The term "President" as used in this Code is defined to mean anyone to whom the authority of the President is delegated under Section 2, subsections (a) and (b) of the National Industrial Recovery Act.

5. The term "Mirror Manufacturing Industry" as used in this Code is defined to mean the manufacture of plate glass or shock mirrors for furniture, framing, jobbing, automobiles, or other special purposes, by whatever process made, and all persons engaged in such manufacture.

6. The term "Secretary" as used in this Code is defined to mean the Secretary of the Mirror Manufacturers' Association.

7. The term "person" as used in this Code is defined to mean any natural person, partnership, corporation, or association.

8. This Code shall become effective ten days after its approval by the President.

9. This Code may be amended as provided in Article V, Section 2, subsection (d), or at any regular meeting of the Mirror Manufacturers' Association, or at any special meeting of the Association called for that purpose.

EXHIBIT A

1. Every price list sent to customers shall contain the terms of sale and state clearly all other conditions affecting prices, including the charges to be made for packing, freight, and trucking, and the f.o.b. point at which prices quoted will apply.

2. Terms of sale for all mirrors and work on mirrors shall be 1% for payment in 10 days from date of invoice, or 30 days net after sale; except that in case of customers buying continuously throughout the month, terms may be 1% for payment on or before the 10th of the month following shipment, and positively net thereafter.

3. Mirrors, beveling, plate glass, and miscellaneous work on mirrors shall be quoted and sold at discounts from the following Official List Prices published by the Mirror Manufacturers Association and the National Glass Distributors Association:

Mirrors—January 15, 1931.

Beveling—January 1, 1925.

Plate Glass—June 15, 1931.

Miscellaneous Work on Glass—December 1, 1931.

except that, in case new lists are adopted by the Mirror Manufacturers Association, the Supervising Committee created under Article V may substitute such new lists for the lists enumerated above; and except that the Supervising Committee may authorize the use of different lists in specific territories.

4. Boxing shall be charged on all mirrors, when boxed, where the invoice amounts to less than \$50.00 net per shipment, at the rate of 12¢ per square foot outside lid measurement of the case. The minimum charge for any box shall be 50¢.

5. Express or freight charges shall not be allowed on the return of any mirror where the cause of the return is due to some fault other than defect of manufacture, as for example, scratching in transit, chipping in framing, etc.

6. The sale of mirrors shall be based on Commercial Standard CS 27-30, issued by the Department of Commerce, December 15, 1930, and mirrors shall be graded only in accordance with that standard.

7. It shall be an unfair trade practice to furnish a grade of mirror other than that sold.

8. Mirrors shall not be resilvered without proper and adequate charge after the expiration of the time for which the mirror has been guaranteed by the manufacturer thereof.

Silvering on mirrors shall not be guaranteed for more than one year, except where the mirrors are electro-copper plated and for which an extra charge of not less than 5% on the total cost of the mirror is made.

9. There shall be no sale of other products without profit in combination with mirrors to induce the sale of mirrors.

10. Mirrors shall not be shipped on consignment by mirror manufacturers.

11. *Inducing Breach of Contract.*—The willful interference by any person, firm, corporation or association, by any means or device whatsoever, with any existing contract or order between a seller and a purchaser, in or about the production, manufacture, transporta-

tion, purchase or sale of any product handled by the industry, or the performance of any contractual duty or service connected therewith, such interference being for the purpose or with the effect of dissipating, destroying or appropriating, in whole or in part, the patronage, property or business of another engaged in such industry, is an unfair trade practice.

12. *Misbranding*.—The marking or branding of products of the industry for the purpose or with the effect of misleading or deceiving purchasers with respect to the quantity, quality, grade or substance of the goods purchased, is an unfair trade practice.

13. *Fraud and Misrepresentation*.—The sale or offering for sale of any product of the industry with intent to deceive customers or prospective customers as to the quantity, quality, substance or size of such product, is an unfair trade practice.

14. *Unbranded Products*.—The sale or shipment of mirrors not branded or marked to indicate their true character, in accordance with accepted standards of the industry, is an unfair trade practice.

15. *Secret Rebates*.—The payment or allowance of secret rebates, refunds, credits, or unearned discounts, whether in the form of money or otherwise, or the giving of premiums, or extending to certain purchasers special service or privileges not extended to all purchasers under like terms and conditions, is an unfair trade practice.

16. *Price Discrimination*.—Any discrimination in price between purchasers of the same class, not including discrimination in price on account of the difference in grade, quality or quantity of the product sold, or which makes only due allowance for difference in cost of selling and transportation, or discrimination in price in the same or different communities not made in good faith to meet competition, is an unfair trade practice: *Provided, however*, That nothing in this resolution shall be construed to prevent the publication and use of a special quantity price applicable to a definite quantity of goods which are placed in one order and, at the option of the shipper, are moved as one shipment.

17. *Price Discrimination*.—As the failure of the industry to adopt uniform practices with respect to requiring purchasers to pay transportation and trucking charges has inevitably resulted in unfair price discrimination, the allowance of transportation or trucking charges on products (a) sold f.o.b. seller's warehouse or city, or (b) sold on a delivered basis, transportation charges to be paid by the consignee, in excess of the actual or published amount of such charges, is an unfair trade practice: *Provided, however*, That nothing herein shall be construed to prevent the payment by the seller at his option of trucking charges within city limits.

18. *Price Discrimination*.—As packing, freight, and trucking charges are necessarily reflected in price, and as the variable practice on the part of sellers of requiring purchasers in some instances to pay such charges and in other instances of assuming such charges causes unfair price discrimination, the failure of the seller to require the purchaser in each instance to pay published charges for packing, freight and trucking, is an unfair trade practice.

19. *Price Discrimination*.—As freight or transportation charges are reflected in the price, free trucking beyond city limits is an unfair method of competition, *unless* published with the price and allowed to all customers buying similar quantities within the same territory.

20. *Inducing Sales of Other Products.*—The industry hereby condemns as an unfair trade practice, the selling of mirrors below cost; or for the purpose directly or indirectly, or with the effect, of furthering the sale of some other product.

21. *Arbitration.*—The industry hereby records its approval of the practice of handling disputes in a fair and reasonable manner, coupled with a spirit of moderation and goodwill, and every effort should be made by the disputants themselves to arrive at an agreement. If unable to do so, arbitration under some one of the prevailing codes should be agreed upon, as it is at all times preferable to litigation with its costly handicaps and delays.

22. *Selling Without Specifications.*—The acceptance by distributors and manufacturers of blanket contracts from dealers or distributors of their product without statement of specifications affords opportunity for the rejection of such contracts by the purchasers on decline of price, provides an artificial stimulus to the industry through the existence of large numbers of unconfirmed contracts with resulting enhancement of prices to consumers, and constitutes an unfair trade practice: *Provided, however,* That nothing herein shall be construed to prevent the acceptance of contracts under the terms of which complete specifications will be furnished within 30 days from date of acceptance of order, and for delivery within 60 days, except in case of bona fide building contracts, then quantity and approximate sizes to be filed within ten days.

23. *Antidumping.*—The practice of certain manufacturers and sellers of shipping quantities of merchandise into territories outside their particular territories, and of selling such merchandise below the general market prevailing in such other territories into which shipments are made, seriously tends to demoralize the market within the territories into which shipments are made, disrupts normal competitive conditions throughout the entire industry, and is condemned as an unfair trade practice.

