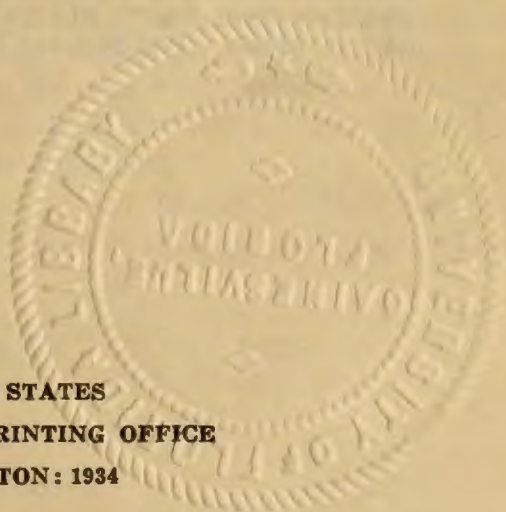
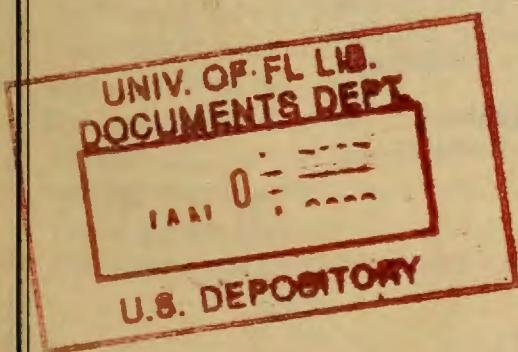


NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION
FOR THE
OUTDOOR ADVERTISING
TRADE

AS APPROVED ON FEBRUARY 24, 1934



UNITED STATES
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Approved Code No. 304

CODE OF FAIR COMPETITION
FOR THE
OUTDOOR ADVERTISING TRADE

As Approved on February 24, 1934

ORDER

CODE OF FAIR COMPETITION FOR THE OUTDOOR ADVERTISING TRADE

An application having been duly made pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for approval of a Code of Fair Competition for the Outdoor Advertising Trade, and hearings having been duly held thereon and the annexed report on said Code, containing findings with respect thereto, having been made and directed to the President:

NOW, THEREFORE, on behalf of the President of the United States, I, Hugh S. Johnson, Administrator for Industrial Recovery, pursuant to authority vested in me by Executive Orders of the President, including Executive Order No. 6543-A, dated December 30, 1933, and otherwise; do hereby incorporate by reference said annexed report and do find that said Code complies in all respects with the pertinent provisions and will promote the policy and purposes of said Title of said Act; and do hereby order that said Code of Fair Competition be and it is hereby approved; provided, however, that the provisions of Article VIII, Section 2, insofar as they prescribe a waiting period between the filing with the Code Authority (i.e. actual receipt by the Code Authority) and the effective date of revised price lists or revised terms and conditions of sale be and they are hereby stayed pending my further order.

HUGH S. JOHNSON,
Administrator for Industrial Recovery.

Approval recommended:

A. D. WHITESIDE,
Division Administrator.

WASHINGTON, D.C.,
February 24, 1934.

REPORT TO THE PRESIDENT

The PRESIDENT,
The White House.

INTRODUCTION

SIR: This is the report of the Administrator on the application for, and public hearing on, a Code of Fair Competition for the Outdoor Advertising Trade, as proposed by a group representative of that trade. The public hearing was conducted in Washington on December 8, 1933. Every person who requested an appearance was freely heard in accordance with statutory and regulatory requirements.

There are estimated to be 1300 firms in this trade. The group proposing the Code endeavored to get in touch with all known members and it is certain that better than 80% of the business was directly represented.

ECONOMIC AND STATISTICAL MATERIAL

Outdoor Advertising breaks down into 17,500 units or "plants", each comprised of a group of bill-boards within a given area, which in 1928 produced a business of \$65,000,000 and gave employment to 16,000 persons. In 1933, the volume of business had dwindled to \$25,000,000 and employment stood at 10,000, declines of about 60% and 40% respectively. Being strictly a service business, Outdoor Advertising is dependent upon general conditions and has little recreative power within itself.

RÉSUMÉ OF CODE PROVISIONS

The Code establishes a 40 hour week for all employees except those engaged in outside work in communities of less than 25,000 population where allowance is made for additional time occasioned by the distances between locations. It is estimated that over 85% of all employees will be on a 40 hour week and that employment in the trade will increase by 15% on the basis of the same volume of business as was available in 1933.

Insofar as rates of pay are concerned, differentiation is made between workers inside and outside the employer's shop, with special consideration to both the size of the community and the South. A majority of workers will be on a 40 cent minimum rate. The lowest rate possible will be 30 cents for outside workers in small communities in the South. These provisions will result in payroll increases averaging better than 10%. The minimums apply to a very limited number of employees (not over 15%) as practically all employees fall in skilled classifications or trades where wages are at relatively high levels, and are adequately protected by the terms of the Code.

The unfair trade practice provisions are elaborate in order to preserve all of the competitive elements. As in the case of other advertising media, such as magazines, it is important that rates be determined in advance. This is especially important in Outdoor Advertising because an advertiser often wishes a national display which necessarily involves "plants" owned by a multitude of individual concerns, some of which may be in direct competition.

FINDINGS

The Deputy Administrator in his final report to me on said Code having found as herein set forth and on the basis of all the proceedings in this matter;

I find that:

(a) Said Code is well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act, including removal of obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof and will provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among the trade groups, by inducing and maintaining united action of labor and management under adequate governmental sanctions and supervision, by eliminating unfair competitive practices, by promoting the fullest possible utilization of the present productive capacity of industries, by avoiding undue restriction of production (except as may be temporarily required), by increasing the consumption of industrial and agricultural products through increasing purchasing power, by reducing and relieving unemployment, by improving standards of labor, and by otherwise rehabilitating industry.

(b) Said Trade normally employs not more than 50,000 employees; and is not classified by me as a major industry.

(c) The Code as approved complies in all respects with the pertinent provisions of said Title of said Act, including without limitation Subsection (a) of Section 3, Subsection (a) of Section 7, and Subsection (b) of Section 10 thereof; and that the applicant group is truly representative of the aforesaid Trade; and that said group imposes no inequitable restrictions on admission to membership therein.

(d) The Code is not designed to and will not permit monopolies or monopolistic practices.

(e) The Code is not designed to and will not eliminate or oppress small enterprises and will not operate to discriminate against them.

(f) Those engaged in other steps of the economic process have not been deprived of the right to be heard prior to approval of said Code.

For these reasons, the Code has been approved.

HUGH S. JOHNSON,
Administrator.

FEBRUARY 24, 1934.

CODE OF FAIR COMPETITION FOR THE OUTDOOR ADVERTISING TRADE

ARTICLE I—PURPOSE

To effectuate the policies of Title I of the National Industrial Recovery Act, the following provisions are established as a Code of Fair Competition for the Outdoor Advertising Trade, and shall be the standard of fair competition for such Trade and shall be binding upon every member thereof.

ARTICLE II—DEFINITIONS

The term "Outdoor Advertising Trade" as used herein includes the service for others of selling and/or erecting and/or placing and/or maintaining outdoor advertising displays on premises owned, leased or controlled by a member, and such related branches or subdivisions as may from time to time be included under the provisions of this Code.

The term "employee" as used herein includes anyone engaged in the Trade in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation, except a member of the Trade.

The term "employer" as used herein includes anyone by whom any such employee is compensated or employed.

The term "member of the Trade" includes anyone engaged in the Trade as above defined, either as an employer or on his own behalf.

The term "trade area" as used herein means any area designated as a trade area by the Code Authority in accordance with the provisions of this Code.

The term "President", "Act", "Administrator", and "Code Authority", as used herein shall mean respectively the President of the United States, Title I of the National Industrial Recovery Act, the Administrator for Industrial Recovery, and the agency herein created to administer this Code for the Trade.

Population for the purposes of this Code shall be determined by the latest Federal Census.

ARTICLE III—HOURS

1. No employee engaged outside of the shop of the employer but within the corporate limits of the city in which the shop is located shall be permitted to work more than forty (40) hours in any one week except as provided in the following two subsections:

(1) No employee engaged outside of the shop of an employer located in a city or town of 25,000 population or less but greater than 2,500 population shall be permitted to work in excess of forty-four (44) hours in any one week.

(2) No employee engaged outside of the shop of an employer located in rural communities of 2,500 or less shall be permitted to work in excess of forty-eight (48) hours in any one week.

2. No watchman shall be permitted to work in excess of fifty-six (56) hours per week averaged over any consecutive two (2) week period.

3. No other employee, except as set forth in Sections 1 and 2 of this Article, outside salesman, outside leaseman, traveling auditors and employees engaged in a managerial or executive capacity receiving Thirty-five (\$35.00) Dollars a week or more, shall be permitted to work in excess of forty (40) hours in any one week or eight (8) hours in any twenty-four (24) hours period.

4. The maximum hours fixed in the foregoing sections shall not apply to any employee on emergency maintenance or emergency repair work involving breakdowns or protection of life or property, but in any such special case at least time and one-third shall be paid for hours worked in excess of the maximum hours herein provided.

5. No employee shall be permitted to work more than six (6) days in any seven (7) day period.

ARTICLE IV—WAGES

1. No employee in the Trade shall be paid less than Fifteen (\$15.00) Dollars per week in cities of 500,000 population or more and in the trade areas of such cities; Fourteen Dollars and Fifty Cents (\$14.50) per week in cities between 250,000 and 500,000 population and in the trade areas of such cities; Fourteen (\$14.00) Dollars per week in cities between 50,000 and 250,000 population and in the trade areas of such cities; Thirteen (\$13.00) Dollars per week in cities or places of less than 50,000 population and in the trade areas of such cities or places, except—

(a) Employees engaged outside of the shop of the employer, shall be paid not less than 40¢ per hour in cities of 25,000 population or more, and not less than 35¢ per hour in cities or places of less than 25,000 population, provided, however, that in the States of Virginia, North Carolina, South Carolina, Florida, Georgia, Mississippi, Tennessee, Texas, Alabama, Arkansas, West Virginia, Oklahoma, New Mexico, Kentucky, and Louisiana, the minimum rate shall be 5¢ less per hour, than the hourly rates herein established.

(b) Apprentices shall be paid not less than 80% of the minimum rate, provided, however, that no employee shall be classed as an apprentice who has worked for any employer in the Trade a total of 25 weeks or more and provided further, that the number of apprentices thus classified and paid below the minimum shall not exceed 5% of the total number of employees of any employer, except that one apprentice may be employed by any employer.

2. This Article establishes a minimum rate of pay, regardless of whether an employee is compensated on a time-rate, piecework, or other basis.

3. No employee whose full time weekly hours for the four weeks ended June 17, 1933, are reduced by the provisions of this Code by 20% or less shall have his or her full time weekly earnings reduced. No employee whose full time weekly hours are reduced by the pro-

visions of this Code in excess of 20% shall have his or her said earnings reduced by more than 50% of the amount calculated by multiplying the reduction in hours in excess of 20% by the hourly rate.

4. Female employees performing substantially the same work as male employees shall receive the same rates of pay as male employees.

ARTICLE V—GENERAL LABOR PROVISIONS

1. No person under 16 years of age shall be employed in the Trade, or anyone under 18 years of age at operations or occupations hazardous in nature or detrimental to health. The Code Authority shall submit to the Administrator within 90 days after the effective date, a list of such operations or occupations. In any State, an employer shall be deemed to have complied with this provision if he shall have on file a certificate or permit duly issued by the authority in such State empowered to issue employment or age certificates or permits, showing that the employee is of the required age.

2. Employees 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.

3. No employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing, and

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

5. Within each State this Code shall not supersede any laws of such State imposing more stringent requirements on employer regulating the age of employees, wages, hours of work or health, fire, or general working conditions than under this Code.

6. Employers shall not reclassify employees or duties of occupations performed by employees or engage in any other subterfuge so as to defeat the purposes of the Act or of this Code.

7. Each employer shall post in conspicuous places accessible to employees copies of Articles III, IV, and V of this Code and any amendments thereto.

8. No employees shall be dismissed by reason of making an honest complaint or giving truthful evidence with respect to an alleged violation of this Code.

ARTICLE VI—ADMINISTRATION

To further effectuate the policies of the Act, a Code Authority is hereby constituted to administer this Code.

ORGANIZATION AND POWERS OF CODE AUTHORITY

1. The Code Authority shall consist of nine individuals, or such other number as may be approved from time to time by the Admin-

istrator, to be selected as hereinafter set forth, and of such additional members without vote as the Administrator, in his discretion, may appoint to represent such groups or Governmental agencies as he may designate. The Trade representatives on the Code Authority shall consist of nine members of the Trade, provided that not more than six of the nine members shall be members of the Outdoor Advertising Association of America, Inc.

(a) Each member of the Code Authority may appoint an alternate to represent him in his absence and such alternate shall have full power to vote. No alternate shall, however, be affiliated with any member of the Trade already represented on the Code Authority.

2. The Code committee of the Outdoor Advertising Trade shall arrange, subject to the approval of the Administrator, for the nomination and election of the members of the Code Authority within ninety (90) days from the effective date of this Code. Each member of the Trade qualifying as provided in Section 15 of this Article may cast one vote for each of the nine members of the Code Authority. Members of the Code Authority shall be elected to serve for one (1) year or until their successors are elected. Until the Code Authority is elected the Code Committee shall serve as the Code Authority; provided that in no event shall it serve beyond ninety days from the effective date of the Code. If the Code Authority shall not be elected within such period, the Administrator shall appoint a temporary Code Authority of nine members of the Trade to serve until the election of the Code Authority by the Trade.

3. Each trade or industrial association, directly or indirectly participating in the selection or activities of the Code Authority, shall (1) impose no inequitable restrictions on membership, and (2) submit to the Administrator true copies of its Articles of Association, By-Laws, regulations and any amendments when made thereto, together with such other information as to membership, organization and activities as the Administrator may deem necessary to effectuate the purposes of the Act.

4. In order that the Code Authority shall at all times be truly representative of the Trade and in other respects comply with the provisions of the Act, the Administrator may provide such hearings as he may deem proper; and thereafter if he shall find that the Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate modification in the method of selection of the Code Authority.

5. Nothing contained in this Code shall constitute the members of the Code Authority partners for any purpose. Nor shall any member of the Code Authority be liable in any manner to anyone for any act of any other member, officer, agent, or employee of the Code Authority. Nor shall any member of the Code Authority be liable to anyone for any action or omission to act under the Code except for his own willful misfeasance or non-feasance.

6. The Code Authority shall adopt by-laws and rules and regulations for the procedure and for the administration and enforcement of the Code, in accordance with the powers herein granted, and submit the same to the Administrator for his approval together with true copies of any amendments or additions when made thereto, minutes of meetings when held, and such information as to its activi-

ties as the Administrator may deem necessary to effectuate the purposes of the Act.

7. The Code Authority may receive complaints of violations of this Code, make investigations, reports and recommendations thereof to the Administrator.

8. The Code Authority may utilize the facilities of and cooperate with any and all trade and labor associations or organizations, national, regional, or local, in the Outdoor Advertising Trade in such manner as it deems most useful to its work within the limitations of Article V, Sections 2, 3, and 4, and Article VI, Section 3 of this Code.

9. The Code Authority may coordinate the administration of this Code with such other Codes, if any, as may be related to the Trade, or any subdivision thereof and may assist in promoting joint action upon matters of common interest by establishing a joint Advisory Board to which one or more of its members shall be delegated.

10. The Code Authority may appoint and remove and fix the compensation of such employees, accountants, attorneys and officers as it shall deem necessary or proper for the purpose of administering the Code.

11. The Code Authority shall investigate the question of "overruns", or the permitting of an outdoor advertising display to remain a longer period of time than is actually provided by the advertisers contract. The Code Authority shall make recommendations within 90 days after the effective date of this Code to the Administrator for the regulation of such practice based on such investigation and study.

12. The Code Authority shall obtain from members of the Trade, as soon as the necessary readjustments within the Trade can be made, reports based on periods of one, two, or four weeks, or one month, or multiples thereof, for use of the Code Authority and the Administrator in the administration and enforcement of the Code, and for the information of the President, and to give assistance to members of the Trade in improving methods, or in prescribing a uniform system of accounting and reporting.

13. The Code Authority shall define and determine the trade areas specified in Article IV without regard to City, County, State, or sectional lines.

14. The Code Authority shall cause to be formulated an accounting system and methods of cost finding and/or estimating capable of use by all members of the industry. After such system and methods have been formulated, full details concerning them shall be made available to all members. Thereafter all members shall determine and/or estimate costs in accordance with the principles of such methods.

15. Members of the Trade shall be entitled to participate in and share the benefits of the activities of the Code Authority, to participate in the selection of the members thereof, and to use the N.R.A. Insignia, by assenting to and complying with the requirements of this Code and sustaining their reasonable share of the expense of preparation, presentation, and administration of this Code. The reasonable share of such expense shall be determined by the Code Authority, subject to review by the Administrator, on the basis of

volume of business and/or such other factors as may be deemed equitable to be taken into consideration.

16. If the Administrator shall determine that any action of a Code Authority or any agency thereof may be unfair or unjust or contrary to the public interest, the Administrator may require that such action be suspended to afford an opportunity for investigation of the merits of such action and further consideration by such Code Authority or agency pending final action which shall not be effective unless the Administrator approves or unless he shall fail to disapprove after thirty (30) days' notice to him of intention to proceed with such action in its original or modified form.

17. In addition to information required to be submitted to any Code Authority, all or any of the persons subject to such Code, agreement or license shall furnish such statistical information as the Administrator may deem necessary for the purposes recited in Section 3 (a) of said Act to such Federal and State agencies as the Administrator may designate; nor shall anything in any Code, agreement, or license relieve any person of any existing obligation to furnish reports to Government agencies.

ARTICLE VII—TRADE PRACTICES

1. No member of the Trade shall publish advertising (whether printed, radio, display, or of any other nature) as to his own business which is misleading or inaccurate in any material particular, nor shall any member in any way misrepresent any credit terms, values, policies, services, or the nature or form of the business conducted.

2. No member of the Trade shall knowingly withhold from or insert in any quotation or invoices any statement that makes it inaccurate in any material particular.

3. No member of the Trade shall publish advertising as to his own business which refers inaccurately in any material particular to any competitors or their prices, values, credit terms, policies, or services.

4. No member of the Trade shall sell any service at a price below cost. However, any member may meet the price competition of anyone whose costs under this Code provision are lower.

5. No member of the Trade shall publish or circulate unjustified or unwarranted threats of legal proceedings which tend to or have the effect of harassing competitors or intimidating their customers.

6. No member of the Trade shall secretly offer or make any payment or allowance of a rebate, refund, commission, credit, unearned discount, excess allowance, whether in the form of money or otherwise, nor shall a member of the Trade secretly offer or extend to any customer any special service or privilege not extended to all customers of the same class, for the purpose of influencing a sale.

7. No member of the Trade shall give, permit to be given, or directly offer to give, anything of value for the purpose of influencing or rewarding the action of any employee, agent or representative of another in relation to the business of the employer of such employee, the principal of such agent or the represented party, without the knowledge of such employer, principal or party. Commercial bribery provisions shall not be construed to prohibit free and general distribution of articles commonly used for advertising

except so far as such articles are actually used for commercial bribery as hereinabove defined.

8. No member of the Trade shall induce or attempt to induce the breach of an existing contract between a competitor and his customer or source of supply; nor shall any such member interfere with or obstruct the performance of such contractual duties or services.

9. No member of the Trade shall require that the purchase of any service or lease of any space be a prerequisite to the purchase or lease of any other service or space.

10. No member of the Trade shall join or participate with other members of the Trade who with such member constitute a substantial number of members of the Trade or who together control a substantial per cent of the business in the Trade, in any transaction known in law as a black list, including any practice or device which accomplishes the purpose of a black list.

ARTICLE VIII—OPEN PRICE AGREEMENT

1. The Code Authority shall prepare and complete as soon as possible, subject to the approval of the Administrator, a basic classification of the services of the Trade together with a schedule of items or services for which additions to or deductions from the base prices may be made. This classification may be amended from time to time by the Code Authority.

2. This classification of services shall be made available by the Code Authority to every member of the Trade as well as to purchasers of such services. Within 30 days thereafter each member of the Trade shall file with the Code Authority, or otherwise as it may require, a list showing the base prices for all services, which list shall be available for the benefit of buyers as well as sellers. Any subsequent change in a price list shall be filed as provided herein to become effective not earlier than 30 days from the date of filing, except that the first price list so filed shall become effective immediately.¹

3. No member of the Trade shall quote prices or terms, contract for the sale of or sell any service except upon such current prices and terms as he shall have established by filing with the Code Authority as hereinabove provided. Provided, however, that bona fide quotations made to advertisers or their representatives shall be firm if covered by contract placed with member of the Trade within 90 days from date of making such quotations subject to prior sale.

ARTICLE IX—MODIFICATION

1. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provisions of subsection (b) of Section 10 of the National Industrial Recovery Act, from time to time to cancel or modify any order, approval, license, rule, or regulation issued under Title I of said Act and specifically, but without limitation, to the right of the President to cancel or modify his approval of this Code or any conditions imposed by him upon his approval thereof.

¹ See paragraph 2 of order approving this Code.

2. This Code, except as to provisions required by the Act may be modified on the basis of experience or changes in circumstances, such modification to be based upon application to the Administrator and such notice and hearing as he shall specify, and to become effective on approval of the President.

ARTICLE X—MONOPOLIES

No provision of this Code shall be so applied as to permit monopolies or monopolistic practices, or to eliminate, oppress, or discriminate against small enterprises.

ARTICLE XI—PRICE INCREASES

Whereas the policy of the Act to increase real purchasing power will be made difficult of consummation if prices of services increase as rapidly as wages, it is recognized that price increases should be delayed, and that when made the same should, so far as reasonably possible, be limited to actual increases in the seller's costs.

ARTICLE XII—EFFECTIVE DATE

This Code shall become effective on the tenth day after its approval by the President.

Approved Code No. 304.

Registry No. 1702-23.



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