

NATIONAL RECOVERY ADMINISTRATION

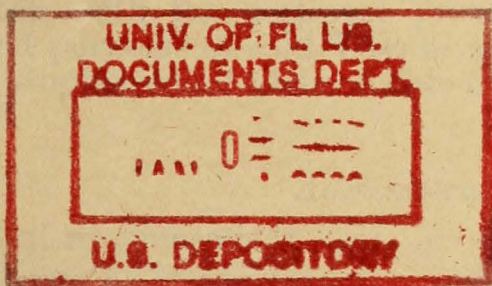
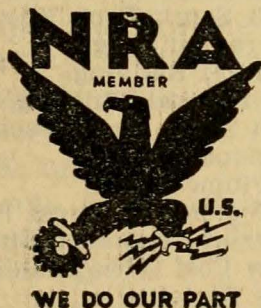
SUPPLEMENTARY
CODE OF FAIR COMPETITION

FOR THE

ELECTRICAL WHOLESALE
TRADE

(A Division of the Wholesaling or Distributing Trade)

AS APPROVED ON AUGUST 13, 1934



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Approved Code No. 201—Supplement No. 20

SUPPLEMENTARY CODE OF FAIR COMPETITION

FOR THE

ELECTRICAL WHOLESALE TRADE

As Approved on August 13, 1934

ORDER

SUPPLEMENTARY CODE OF FAIR COMPETITION FOR THE ELECTRICAL WHOLESALE TRADE

A DIVISION OF THE WHOLESALING OR DISTRIBUTING 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 Supplemental Code of Fair Competition for the Electrical Wholesale Trade to the Code of Fair Competition for the Wholesaling or Distributing Trade, and hearings having been duly held thereon, and the annexed report on said Supplemental 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 Supplemental 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 Supplemental Code of Fair Competition be and it is hereby approved.

HUGH S. JOHNSON,
Administrator for Industrial Recovery.

Approval recommended:

ROBERT L. HOUSTON,
Division Administrator.

WASHINGTON, D.C.,
August 13, 1934.

REPORT TO THE PRESIDENT

The PRESIDENT,
The White House.

SIR: This is a report of the Hearing on the Supplemental Code of Fair Competition for the Electrical Wholesale Trade, a division of the Wholesaling or Distributing Trade, held in the Sun Parlor of the Washington Hotel, on January 10, 1934. The Supplemental Code, which is attached, was presented by duly qualified and authorized representatives of the Trade, complying with the statutory requirements.

THE TRADE

According to statistics furnished by members of the Trade it is estimated that in 1933 there were approximately 950 concerns engaged in the Trade, which will come under the proposed definition in this Supplemental Code. These concerns did an estimated business of \$150,000,000, and employed approximately 14,000 persons.

HOURS AND WAGES

This Code is supplemental to the Code of Fair Competition for the Wholesaling or Distributing Trade and contains no hours and wages provisions, the members of the Trade being governed by the hours and wages provisions of the last mentioned Code.

OTHER PROVISIONS OF THE CODE

The provisions containing supplementary definitions are considered inclusive and accurate.

The supplement to the administrative provisions of the Code of Fair Competition for the Wholesaling or Distributing Trade establishes a Divisional Code Authority which is fairly and adequately representative of all the different elements in the Trade.

The Trade Practice Provisions are not considered in any way objectionable.

FINDINGS

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

I find that

(a) Said Supplemental 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 organi-

zation of industry for the purposes of cooperative action among trade groups, by inducing and maintaining united action of labor and management under adequate governmental sanction and supervision, by eliminating unfair competitive practices, by promoting the fullest possible use 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 Supplemental 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 association is a trade association truly representative of the aforesaid Trade; and that said association imposes no inequitable restrictions to membership therein.

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

(e) The Supplemental 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 the approval of this Supplemental Code.

For these reasons the Supplemental Code has been approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

AUGUST 13, 1934.

SUPPLEMENTARY CODE OF FAIR COMPETITION FOR THE ELECTRICAL WHOLESALE TRADE

A DIVISION OF THE WHOLESALING OR DISTRIBUTING TRADE

ARTICLE I—PURPOSES

To effectuate the policies of Title I of the National Industrial Recovery Act, this Supplemental Code is established as a Code of Fair Competition for the Electrical Wholesale Trade, pursuant to Article VI, Section 1 (c) of the General Code of Fair Competition for the Wholesaling or Distributing Trade, approved by the President of the United States on January 12, 1934. All provisions of the said General Code which are not in conflict with the provisions of this Supplemental Code are hereby specifically incorporated by reference in this Supplemental Code and made part hereof. Such provisions of the General Code together with the provisions of this Supplemental Code are the standards of fair competition for and are binding upon every member of the said Electrical Wholesale Trade.

ARTICLE II—DEFINITIONS

SUPPLEMENTING ARTICLE II OF GENERAL CODE

SECTION 1. For the purposes of this Supplemental Code, a "wholesaler" or "distributor" or "member of the Trade" is defined to mean any individual, partnership, association, corporation, or other form of enterprise, or any division thereof, which renders a general distribution service and which purchases and maintains at his or its place of business a stock of electrical apparatus, appliances, materials and/or supplies sold for use in connection therewith (except radio apparatus and supplies), or which acts as a middleman or broker buying electrical apparatus, appliances, materials and/or supplies sold for use in connection therewith (except radio apparatus and supplies) but which does not necessarily maintain a stock of such merchandise, and which through salesmen, advertising, and/or sales-promotion devices, sells to retailers and/or to institutional, commercial, and/or industrial users, and/or to any other buyers except ultimate consumers as defined in the General Code.

SECTION 2. The term "Trade" as used herein is defined to be the business in which wholesalers or distributors as above defined engage.

SECTION 3. The term "consignment" as used herein is defined to mean the delivery by a member of the Trade to any person, as agent, purchaser or otherwise under any agreement or understanding expressed or implied pursuant to which the receiver of the merchandise may at his option return any of such merchandise or claim any credits with respect thereto.

SECTION 4. The term "Divisional Code Authority", as used herein, shall mean the Divisional Code Authority for the Electrical Wholesale Trade, a division of the Wholesaling or Distributing Trade.

SECTION 5. The term "General Code", as used herein, shall mean the Code of Fair Competition for the Wholesaling or Distributing Trade.

ARTICLE III—ADMINISTRATION

SUPPLEMENTING ARTICLE VI, OF THE GENERAL CODE

SECTION 1. (a) The Divisional Code Authority shall consist of eleven (11) members (from among the Trade or representatives thereof,) eight (8) to be nominated by the Executive Committee of the National Electrical Wholesalers Association and elected by members of the Trade who are also members of the Association in accordance with a method to be approved by the Administrator, and three (3) to be chosen by those members of the Trade who are not members of such Association, by a method to be approved by the Administrator. No member of the Trade shall have more than one member on the Divisional Code Authority.

(b) Only those members of the Trade shall be allowed to vote in the election of members of the Divisional Code Authority who sign or shall have signed a statement of assent and compliance to this Supplemental Code and the General Code.

(c) The terms of office of members of the Divisional Code Authority and the method of electing their successors, whether for full new terms or for unexpired terms shall be established in the By-laws of the Divisional Code Authority, subject to the approval of the Administrator.

SECTION 2. The Divisional Code Authority shall have the following duties and powers in addition to those prescribed in the General Code.

(a) To appoint a Trade Practice Committee, which shall meet with the Trade Practice Committees appointed under such Codes as may be related to the Trade, except other Supplemental Codes to the General Code, for the purpose of formulating Fair Trade Practices to govern the relationships between production and distribution employers under this Supplemental Code and under such others, to the end that such Fair Trade Practices may be proposed to the Administrator as an amendment to this Supplemental Code and such other Codes.

(b) To appoint in each Electrical Wholesale District, as determined by the Divisional Code Authority subject to the approval of the Administrator, a Code Commission to assist the Divisional Code Authority in administering this Supplemental Code; provided, however, that nothing herein shall relieve the Divisional Code Authority of its responsibilities as such.

(c) To organize, elect officers, hire necessary employees and perform such other acts as may be necessary for the proper administration of this Supplemental Code.

(d) To adopt by-laws, rules and regulations for its procedure.

(e) To use such trade associations and other agencies as it deems proper for the carrying out of any of its activities provided for

herein; provided, however, that nothing herein shall relieve the Divisional Code Authority of its duties and responsibilities under this Supplemental Code, and that such trade associations and agencies shall at all times be subject to and comply with the provisions hereof.

(f) To obtain from members of the Trade such information and reports as are required for the administration of this Supplemental Code. In addition to information required to be submitted to the General Code Authority and to the Divisional Code Authority, members of the Trade subject to this Supplemental Code shall furnish such statistical information as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act to such federal and state agencies as he may designate; provided that nothing in this Supplemental Code shall relieve any member of the Trade of any existing obligation to furnish reports to any government agency. No individual report shall be disclosed to any other member of the Trade or any other party except to such other government agencies as may be directed by the Administrator.

SECTION 3. Nothing contained in this Supplemental Code shall constitute the members of the Divisional Code Authority partners for any purpose nor shall any member or members of the Divisional Code Authority be liable in any manner to anyone for any act of any other member, officer, agent, or employee of the Divisional Code Authority. Nor shall any member of the Divisional Code Authority, exercising reasonable diligence in the conduct of his duties hereunder, be liable to anyone for any action or omission to act under this Supplemental Code, except for his own wilful malfeasance or nonfeasance.

SECTION 4. If the Administrator shall determine that any action of the Divisional 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 for further consideration by such Divisional 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 days' notice to him of intention to proceed with such action in its original or modified form.

SECTION 5. It being found necessary, in order to support the administration of this Supplemental Code and to maintain the standards of fair competition established by this Supplemental Code and to effectuate the policy of the Act, the Divisional Code Authority is authorized, subject to the approval of the Administrator:

(a) To incur such reasonable obligations as are necessary and proper for the foregoing purposes and to meet such obligations out of funds which may be raised as hereinafter provided and which shall be held in trust for the purposes of this Supplemental Code;

(b) To submit to the Administrator for his approval, subject to such notice and opportunity to be heard as he may deem necessary:

(1) an itemized budget for its estimated expenses for the foregoing purposes, and (2) an equitable basis upon which the funds necessary to support such budget shall be contributed by members of the Trade;

(c) After such budget and basis of contribution have been approved by the Administrator, to determine and secure equitable

contribution as above set forth by all such members of the Trade, and to that end, if necessary, to institute legal proceedings therefor in its own name.

(d) Each member of the Trade shall pay his or its equitable contribution to the expenses of the maintenance of the Code Authority, determined as hereinabove provided, and subject to rules and regulations pertaining thereto issued by the Administrator. Only members of the Trade complying with the code and contributing to the expenses of its administration as hereinabove provided, unless duly exempted from making such contribution, shall be entitled to participate in the selection of members of the Code Authority or to receive the benefits of any of its voluntary activities or to make use of any emblem or insignia of the National Recovery Administration.

(e) The Divisional Code Authority shall neither incur nor pay any obligation in excess of the amount thereof as estimated in its approved budget, except upon approval of the Administrator; and no subsequent budget shall contain any deficiency item for expenditures in excess of prior budget estimates except those which the Administrator shall have so approved.

ARTICLE IV—TRADE PRACTICES

SUPPLEMENTING ARTICLE VII OF THE GENERAL CODE

SECTION 1. It shall be an unfair trade practice for any member of the Trade to quote a lump sum price unless such quotation shows the price of each item and unless the total equals the sum of all the items.

SECTION 2. Quantity discounts shall be computed on the basis of the quantities shipped and/or billed to a single buyer at one time; provided, however, that when a wholesaler's stock of an item is not sufficient to make a complete shipment a second shipment may be made from the wholesaler's or a manufacturer's stock, and the quantity discounts computed on the basis of the original order.

SECTION 3. It shall be an unfair trade practice for any member of the Trade to deliver merchandise to any customer beyond the metropolitan area of the city within which the distributor is located without making a charge equal to that made by a common carrier for the said delivery; provided, however, that transportation costs may be equalized by any individual member of the Trade acting independently as between recognized wholesaling centers. Where necessary, the Divisional Code Authority at the request of the Code Commission, subject to the approval of the Administrator, shall define the metropolitan areas within a district.

SECTION 4. It shall be an unfair trade practice to ship any goods on consignment except products of manufacturers whose general plan of distribution is by consignment and not by sale for resale, and except where the Divisional Code Authority under unusual circumstances may allow.

SECTION 5. It shall be an unfair trade practice to accept returned goods after sixty days from the date of shipment, or to accept returned goods within such sixty day period, without making a service

charge at least equal to the seller's cost of handling the same; provided, however, that this section shall not apply: (a) if the occasion for the return is the fault of the member of the Trade; or (b) if such credit is made on account of insolvency or financial embarrassment of the customer and is reported to and approved by the Divisional Code Authority; or (c) to the extent that this Section may conflict with the law of any State.

SECTION 6. It shall be an unfair trade practice for any member of the Trade to sell any electrical apparatus, appliances, materials and/or supplies sold for use in connection therewith (except radio apparatus and supplies) governed by this Supplemental Code from which the name plate, serial number, or any other identifying mark of the manufacturer, if any is customarily attached, has been effaced or removed.

SECTION 7. It shall be an unfair trade practice for any member of the Trade to employ subterfuge, directly or indirectly, to avoid or attempt to avoid the provisions of this Supplemental Code or the purposes and intent of the National Industrial Recovery Act, which are to increase employment, provide better wages, promote fair competitive methods, better business conditions, and promote the public welfare.

SECTION 8. It shall be an unfair trade practice for a member of the Trade to grant to a customer a discount for cash at a percentage greater than the percentage of discount for cash received by such member of the Trade on the same merchandise, or to allow extra discounts for anticipation of payment, or to allow a discount for cash on accounts remaining unpaid after the tenth of the calendar month following date of shipment, or to grant any discount for cash where payment is made by warrant, note or trade acceptance.

SECTION 9. It shall be an unfair trade practice to pay or absorb any charge for sales promotion material of any nature furnished by the manufacturer through the medium of the wholesaler to the dealer; provided, nothing contained herein shall prohibit bona fide cooperative advertising.

ARTICLE V—PERMISSIVE TRADE PRACTICES

SECTION 1. In any Trade Area, if a majority in numbers and volume of all known members of the Trade in said Area vote in favor of establishing uniform operating hours, such a schedule of uniform operating hours may be recommended through the Divisional Code Authority to the Administrator for approval. After approval by the Divisional Code Authority and the Administrator, after such notice and hearing as the Administrator may prescribe, said uniform hours shall be binding upon all members of the Trade in such Trade Area.

ARTICLE VI—MODIFICATION

This Supplemental 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, rules or regulations issued under Title I of said Act.

ARTICLE VII—EFFECTIVE DATE

This Supplemental Code shall become effective on the 10th day after its approval by the Administrator, and thereupon the provisions of the Code of Fair Competition for the Industrial Supplies and Distributing Trade shall become inapplicable as to any activities of members of the Electrical Wholesale Trade as hereinbefore defined, which are covered by this Supplemental Code.

Approved Code No. 201—Supplement No. 20.
Registry No. 1308-06.

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