

NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

FOR THE

**RADIO BROADCASTING
INDUSTRY**

AS APPROVED ON NOVEMBER 27, 1933

BY

PRESIDENT ROOSEVELT



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Approved Code No. 129

CODE OF FAIR COMPETITION

FOR THE

RADIO BROADCASTING INDUSTRY

As Approved on November 27, 1933

BY

PRESIDENT ROOSEVELT

Executive Order

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 my approval of a Code of Fair Competition for the Radio Broadcasting Industry, and hearings having been held thereon and the Administrator having rendered his report containing an analysis of the said code of fair competition together with his recommendations and findings with respect thereto, and the Administrator having found that the said code of fair competition complies in all respects with the pertinent provisions of title I of said act and that the requirements of clauses (1) and (2) of subsection (a) of section 3 of the said Act have been met:

NOW, THEREFORE, I, Franklin D. Roosevelt, President of the United States, pursuant to the authority vested in me by title I of the National Industrial Recovery Act, approved June 16, 1933, and otherwise, do approve the report and recommendations, and adopt the findings of the Administrator and do order that the said code of fair competition be and it is hereby approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
November 27, 1933.

(353)

NOVEMBER 23, 1933.

The PRESIDENT,
The White House.

SIR: A proposed Code of Fair Competition for the Radio Broadcasting Industry was submitted to the Administrator on August 29, 1933, by the National Association of Broadcasters, Inc. The Association is an established trade association of long standing and is the only trade association in the Industry. It represents approximately forty-five (45%) percent of the stations by numbers and over eighty-three (83%) percent of the volume of business done within the Industry.

A Hearing was conducted in Washington, D.C., on September 27, 1933, and the Code was revised during the recess of this Hearing and is submitted in its present form for approval. Every person who requested an appearance was heard in accordance with statutory and regulatory requirements. Communications received from interested parties who had not requested to be heard were read into the record.

Radio Broadcasting in its present form is a comparatively new development. It embraces the complete operation of all stations or networks designed for broadcasting, including, in connection with such operations, the preparation and production of programs both sponsored and unsponsored for the purpose of providing entertainment, instruction, and general service through the agency of radio broadcasting.

ARTICLE III—HOURS

This Article provides that no employee shall be permitted to work in excess of 40 hours in any one week, except that such hourly limitations do not apply to employees in managerial or executive capacity who receive not less than \$35 per week in the larger stations, nor to the same class of employees who receive not less than \$25 per week in radio broadcasting stations in which, on July 1, 1933, not more than ten persons were regularly employed. Further, such hourly and daily limitations do not apply to employees on emergency maintenance or emergency repair work, but overtime is to be paid for hours worked in excess of the maximum. Broadcast technicians are permitted to work 48 hours per week. Regarding this class of employees there was a lack of reliable statistics covering the number of hours which they now work, and faced with this lack of statistics it was deemed necessary to allow a 48-hour week pending the report of the Code Authority on a study to be made within ninety (90) days. The hours of such employees now vary from a minimum of 36 hours to a maximum of over 80. Approval of a 48-hour week for the next ninety (90) days has been given by the Advisers to the Deputy.

Those stations which now operate on the basis of a lesser number of hours per week are limited to those hours and may not increase their

working week for broadcast technicians to 48. Overtime is not permitted within the Industry except in the case of an emergency worker.

It is the first time within the Industry that there has been a classification of workers, minimum rates of pay, or maximum number of hours of employment. The reduction in hours will require the re-employment of some 765 men, or an increase of 350 men over the total employed within the Industry for any previous period.

ARTICLE IV—WAGES

Nontechnical employees are guaranteed the wages provided in the President's Reemployment Agreement. The guaranteed wage for broadcast operators and control men varies in amount according to the Federal Radio Commission classification of the station by which they are employed, as follows:

(a) Clear channel or high-power regional stations not less than \$40 per week;

(b) Clear channel part-time or low-power regional stations not less than \$30 per week;

(c) Low-power part-time regional, local unlimited, or local part-time stations not less than \$20 per week. Such employees in the past have been paid as little as \$9 per week in some of the small stations. Announcers and program production employees are to receive not less than \$20 per week, except in the very small stations where they are to receive not less than \$15.

The employers agree not to reduce the compensation for employment now in excess of minimum wages, notwithstanding that the hours may be reduced, and to increase the pay for such employment by an equitable readjustment.

There is no discrimination between the sexes in rates of pay.

ARTICLE V—GENERAL LABOR PROVISIONS

No one under sixteen years of age is to be employed within the Industry, except as talent on programs and then for not more than three hours per day, and those hours to be such as will not interfere with school hours.

This Article embodies Paragraph (a) Section 7 of Title I of the National Industrial Recovery Act. It further provides that working conditions shall not be changed to frustrate the intent and purpose of this Code.

In the proposed Code there is constituted a named Code Authority of nine (9) comprising representatives of independent stations, the Special Adviser, the Industrial Adviser, and the Labor Adviser on the Code, two representatives of the broadcasting networks, and in addition not more than three members to be appointed by the Administrator. The members of the Code Authority, with long experience and training within the Industry, were named so that there might be no delay in instituting the investigations which are required of that body, and in making recommendations to the Administrator for a permanent form of organization for the administration of the Code.

ECONOMIC EFFECT

The provisions of the Code will require reemployment of 765 men and will increase existing pay rolls and the buying power of this group at the estimated rate of \$1,328,000 per year. The total pay rolls under the Code will be more than double those of 1929. More stations are now in operation and more individuals employed than there were in 1929. My information indicates that there will be no increase in rates charged for facilities, so the consumer should not be adversely affected. The Industry will be required to absorb the greater operating costs.

The Research and Planning Division reports that the Code is designed to improve conditions in the Radio Broadcasting Industry, and that they are satisfied with the Code as it stands.

FINDINGS

The Administrator finds that:

(a) This Code complies in all respects with the pertinent phrases of Title I of the Act, including without limitation, subsection (a) of Section 7, and subsection (b) of Section 10 thereof;

(b) The Committee which proposes the Code is truly representative of the Radio Broadcasting Industry, and the By-Laws of the Association representing the divisions thereof provide no inequitable restrictions to membership;

(c) The Code is not designed to promote monopolies or to eliminate or oppress small enterprises and will not operate to discriminate against them, and will tend to effectuate the policy of Title I of the National Industrial Recovery Act.

It is recommended, therefore, that this Code be approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION
FOR THE
RADIO BROADCASTING INDUSTRY

ARTICLE I—PURPOSES

To effectuate the policy of Title I of the National Industrial Recovery Act, the following provisions are submitted as a Code of Fair Competition for the Radio Broadcasting Industry, and upon approval by the President shall be the standard of fair competition for such Industry and shall be binding on every member thereof.

ARTICLE II—DEFINITIONS

1. *Radio Broadcasting*, as used herein, means the transmission through space by means of any radio frequency of signals intended to be received, whether audibly or visually, directly by the public.

2. *Radio Broadcasting Industry*, as used herein, embraces the complete operations of all broadcasters, or networks designed for broadcasting as above defined, including, in connection with such operations, the preparation and production of programs, both sponsored and unsponsored, for the purpose of providing entertainment, instruction, and general service through the agency of radio broadcasting.

3. *Broadcaster*, as used herein, means any individual, partnership, corporation, association, or other form of enterprise engaged in the radio-broadcasting industry as above defined.

4. *Network*, as used herein, means any individual, partnership, corporation, association, or other form of enterprise in the business of regularly supplying, by wire or wireless, programs for broadcasting, simultaneously to two or more radio-broadcasting stations.

5. *Employee*, as used herein, means any person engaged in the industry and employed by a broadcaster or network at a regular hourly, daily, weekly, or monthly salary or wage, as distinguished from an independent contractor or a professional person who is paid by the job or performance.

6. *Employer*, as used herein, means any broadcaster or network engaged in the industry.

7. *Broadcast Technician*, as used herein, means any person employed for the operation or maintenance of any transmitting, control, or input equipment used in radio broadcasting.

8. *Act* and *Administrator*, as used herein, mean respectively Title I of the National Industrial Recovery Act and the Administrator for Industrial Recovery.

ARTICLE III—HOURS

1. No employee shall be permitted to work in excess of forty hours in any one week, except those included in the classes enumerated in paragraph number two hereof.

2. The maximum hours fixed in the foregoing paragraph number one shall not apply to:

(a) Employees in a managerial or executive capacity (including announcers, production men, and chief operators) who receive more than thirty-five dollars per week; employees in a managerial or executive capacity (including announcers, production men, and chief operators) who receive more than twenty-five dollars per week in radio broadcasting stations in which on July 1, 1933, not more than ten persons were regularly employed.

(b) Outside salesmen.

(c) Employees on emergency maintenance and emergency repair work but at least one and one-half times the normal rate shall be paid such employees for hours worked in excess of the maximum hours provided in Section 1 of this article.

(d) Broadcast Technicians, with respect to whom the maximum hours of work shall not exceed forty-eight hours per week.

(e) Persons employed on special event programs of public interest, with respect to whom the maximum hours of work shall not exceed the number of hours herein prescribed for their class of work averaged over any six weeks' period.

ARTICLE IV—WAGES

1. No employee, except those enumerated in paragraphs (a), (b), and (c) hereof shall be paid at less than the weekly rate of fifteen dollars per week in any city of over 500,000 population or in the immediate retail trade area of such city; or at less than the rate of fourteen dollars and fifty cents per week in any city of between 250,000 and 500,000 population or in the immediate retail trade area of such city; or at less than the rate of fourteen dollars per week in any city of between 2,500 and 250,000 population or in the immediate retail trade area of such city; or at less than the rate of twelve dollars per week in any town or place of less than 2,500 population. Population for the purpose of this Code, shall be determined by the 1930 Federal Census.

(a) Broadcast operators and control men shall be paid at a rate of not less than forty dollars per week when they are employed at any radio broadcasting station classified by the Federal Radio Commission as a clear channel or high-power regional station; or at a rate of not less than thirty dollars per week when they are employed at any broadcasting station classified by the Federal Radio Commission as a clear channel part-time or low-power regional station, unless such station on July 1, 1933, regularly employed not more than three broadcast operators and control men, in which case the rate of pay shall be not less than twenty dollars per week; and at a rate of not less than twenty dollars per week at any broadcasting station classified by the Federal Radio Commission as a low-power part-time regional, local unlimited, or local part-time station. Employers shall be entitled to employ as apprentices persons learning the technique of radio broadcasting control and transmission. Such apprenticeship within the Industry shall not exceed a cumulative period of twelve months. The number of persons so employed, if more than one, shall not exceed five percent of the total number of

regular employees of each employer. The rate of pay of apprentices shall be not less than twelve dollars per week.

(b) Announcers and program production employees shall be paid at a rate of not less than \$20 per week, except that where a broadcaster regularly employed not more than ten persons on July 1, 1933, such announcers and program production employees may be paid not less than \$15 per week.

(c) The minimum rate of pay herein provided shall not apply to outside salesmen working on commission only.

2. Employers agree not to reduce the compensation for employment now in excess of the minimum wages hereby agreed to (notwithstanding that the hours worked in such employment may be hereby reduced) and to increase the pay for such employment by an equitable readjustment of all pay schedules. Where a State law provides a higher minimum wage than is provided in this Code, no person employed within that State shall be paid a wage below that required by such State law.

ARTICLE V—GENERAL LABOR PROVISIONS

1. After the effective date of this Code, employers will not employ any person under sixteen years of age, except that persons under sixteen may be used as talent on programs for not more than three hours per day, and those hours to be such as will not interfere with their schooling. Provided, however, that where a State law provides a higher minimum age, such State law shall be controlling.

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.

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

5. Working conditions in any broadcasting station or network shall not be changed to frustrate the intent and purpose of this Code. Where on November 1, 1933 any broadcaster paid broadcast technicians wages in excess of the minimum herein provided for or worked such employees a lesser number of hours per week than herein permitted, such higher wages and such lesser number of hours shall be deemed to be and are hereby declared to be the minimum scale of wages and maximum number of hours with respect to such stations.

6. Nothing herein contained shall be construed to apply to employees whose rates of wages, hours, and/or weekly full-time wages are established by labor agreement, understandings or practices now in force, where such minimum rates of pay are higher and the maxi-

imum number of hours per week are lower than those set forth herein above.

7. All employers shall post complete copies of this Code in conspicuous places accessible to employees.

ARTICLE VI—ADMINISTRATION

To further effectuate the policies of the Act, a Code Authority is hereby constituted to cooperate with the Administrator in the administration of this Code.

1. The Code Authority shall consist of James W. Baldwin, Isaac Z. Buckwalter, John Elmer, James Kiernan, Alfred J. McCosker, Edward N. Nockels, N. R. Runyon, Frank M. Russell, John Shepard, III, and in addition thereto there may be three members without vote to be appointed by the Administrator, who, together with the Administrator, shall be given notice of and may sit at all meetings of the Code Authority.

2. In order that the Code Authority shall at all times be truly representative of the industry 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.

3. The Code Authority shall investigate the hours of labor and the wages of radio artists and performers (other than musicians), and upon the completion of its investigation shall report thereon to the Administrator.

4. The Code Authority shall investigate the hours of labor, wages, and working conditions of broadcast technicians and the relation thereof to general conditions within the industry, and within a period of ninety days from the effective date of this Code, shall report thereon to the Administrator.

5. As and when any question directly or indirectly affecting any class of employees engaged in the Radio Broadcasting Industry is to be considered by the Code Authority, one representative of such class, selected by the Administrator from nominations made by such class in such manner as may be prescribed by the Administrator, shall sit with and become for such purposes a member of the Code Authority with a right to vote.

6. In addition to information required to be submitted to the Code Authority there shall be furnished such statistical information as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the National Industrial Recovery Act.

7. The Code Authority shall recommend to the Administrator a permanent form of organization for the administration of this Code.

8. Members of the broadcasting industry shall be entitled to participate in and share the benefits of the activities of the Code Authority and to participate in the selection of the members thereof by assenting to and complying with the requirements of this Code and sustaining their reasonable share of the expenses of its administration. Such reasonable share of the expenses of administration 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.

9. 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 exercising reasonable diligence in the conduct of his duties hereunder, or be liable to anyone for any action or omission to act under the Code, except for his own willful misfeasance or non-feasance.

10. The Code Authority shall have the following powers and duties in addition to those elsewhere provided in this Code, subject to the right of the Administrator, on review, to disapprove or modify any action taken by the Code Authority:

(a) To adopt bylaws and rules and regulations for its procedure and for the administration and enforcement of the Code, in accordance with the powers herein granted, and to 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 other information as to its activities as the Administrator may deem necessary to effect the purposes of the Act.

(b) To obtain from members of the industry for use of the Code Authority, for the Administrator in the administration and enforcement of the Code, and for the information of the President, reports based on such periods as may be determined by the Code Authority as soon as the necessary readjustment within the industry can be made and to give assistance to members of the industry in improving methods, or in prescribing a uniform system, of accounting and reporting. All individual reports shall be kept confidential as to the members of the industry and only general summaries thereof may be published.

(c) To receive complaints of violations of this Code, make investigations thereof, provide hearings thereon and adjust such complaints, and bring to the attention of the Administrator for prosecution, recommendations, and information relative to unadjusted violations; in no event shall the Code Authority proceed to prosecute without notice to and approval by the Administrator.

(d) To use such trade associations and other agencies as it deems proper for the carrying out of any of its activities provided for herein and to pay such trade associations and agencies the cost thereof, provided that nothing herein shall relieve the Code Authority of its duties or responsibilities under this Code and that such trade associations and agencies shall at all times be subject to and comply with the provisions hereof.

(e) To coordinate the administration of this Code with such other codes, if any, as may be related to the industry, or any subdivision thereof, and to delegate to any other administrative authority, with the approval of the Administrator, such powers as will promote joint and harmonious action upon matters of common interest.

(f) To secure an equitable and proportionate payment of the expenses of maintaining the Code Authority and its activities from members of the Industry.

(g) To cooperate with the Administrator in regulating the use of the N.R.A. Code Insignia solely by those employers who have assented to and are complying with this Code.

(h) Where the operations of the provisions of this Code impose an unusual or undue hardship upon any broadcaster or network such broadcaster or network may make application for relief to the Administrator or to his duly authorized agent, and the Administrator or his agent may, after such public notice and hearing as he may deem necessary, grant such exception to or modification of the provisions of this Code as may be required to effectuate the purpose of the National Industrial Recovery Act.

(i) To initiate, consider, and make recommendations for the modification or amendment of this Code.

11. An appeal from any action by the Code Authority affecting the rights of any employer or employee in the Industry may be taken to the Administrator.

ARTICLE VII—TRADE PRACTICES

1. *Rates, Commissions, and Discounts.*—(a) Each broadcaster and network shall forthwith publish and file with the Code Authority a schedule of all its rates regularly and currently charged to advertisers for the use of broadcasting time, together with all discounts, rebates, refunds, and commissions which shall be allowed to the users of such time or to their recognized agents, such schedule to be known as the Rate Card. No Rate Card or rate charged thereunder shall be modified until fifteen days after the filing with the Code Authority of the Rate Card with the proposed modifications. Charges for the use of broadcasting time, and discounts, rebates, refunds, and commissions allowed to the users of such time or their recognized agents shall be in exact accordance with such Rate Card except that under conditions not specifically covered by the Rate Card, charges for the use of broadcasting time may be at special rates provided a full written statement of such special rates and conditions is filed immediately with the Code Authority, which authority shall be authorized to publish such statement in full. In no event shall modifications of the Rate Card, special rates or special conditions violate any of the terms of this Code.

(b) Any attempt to evade the provisions of this Code through the offer or payment of excessive or unearned commissions, discounts, rebates, refunds, gratuities, or free time (other than legitimate program announcements) and any business done on a cost per-inquiry, contingent, or percentage basis shall be deemed unfair trade practice within the meaning of this Code.

2. *Special Services and Facilities.*—(a) No broadcaster or network shall supply for commercial programs special technical facilities, including outside pickups or wire lines, at less than the actual cost to it of such special services or facilities unless a full written report is filed immediately with the Code Authority and in no event shall such facilities be supplied below cost for the purpose of evading the provisions of this Code.

3. *Sales of Talent, Literary and Musical Rights, Recordings, Etc.*—(a) No broadcaster or network shall sell or furnish for commercial

programs, talent, or special recordings, or literary or musical rights of any sort, not provided for in the Rate Card at less than the actual cost to the broadcaster or network of such talent or special recordings, or literary or musical rights unless a full written statement of such sale below cost is filed immediately with the Code Authority, and in no event shall such sale below cost be for the purpose of evading the provisions of this Code.

4. *General Provisions.*—(a) This Code shall apply to all contracts made on or after the date on which this Code becomes effective and after that date shall apply to all renewals or extensions made of contracts made prior thereto unless there is vested in a party other than the broadcaster or network a right to renew or extend the then-existing contract.

(b) No broadcaster or network shall defame or disparage a competitor, directly or indirectly, by words or acts which untruthfully call in question such competitor's business integrity, ability to perform contracts, credit standing, or quality of service.

(c) No broadcaster or network shall claim for its service a character, scope, or quality which cannot be substantiated, nor shall it claim as regular characteristics of its service features which it knows to be purely temporary or accidental.

(d) No broadcaster or network shall accept or knowingly permit any performer, singer, musician, or orchestra leader regularly employed by such broadcaster or network to accept any money, gift, bonus, refund, rebate, royalty service, favor, or any other thing or act of value from any music publisher, composer, author, copyright owner, or the agents or assignees of any such persons for performing or having performed any musical or other composition for any broadcaster or network when the purpose is to induce such persons to sing, play, or perform, or to have sung, played, or performed any such works.

(e) No broadcaster or network shall knowingly permit the broadcasting of any advertisement of, or information concerning any lottery, gift enterprise, or similar scheme, offering prizes dependent in whole or in part upon lot or chance, or any list of the prizes drawn or awarded by means of such lottery, gift enterprise, or scheme, whether said list contains any part or all of such prizes.

(f) Where a station or network is broadcasting a sustaining program utilizing the services of any band or orchestra, it shall be deemed an unfair practice under this Code to make any commercial announcement advertising any commodity either before, during, or after the program the effect of which is to create falsely the impression that the music is furnished or paid for by any persons or firm other than the actual employer of such band or orchestra.

(g) It shall be considered an unfair trade practice under this Code for any station or network to destroy fair competition among bands or orchestras by causing booking offices, artist bureaus, or agents to demand that any hotel, night club, restaurant, or similar establishment employ any specific band or orchestra.

(h) It shall be considered an unfair trade practice under this Code for any broadcaster to broadcast without being duly authorized by the United States Government.

(i) No broadcaster or network shall use any subterfuge to frustrate the spirit and intent of this Code, and the violation of any of the provisions of this Article VII of this Code shall be deemed an unfair trade practice.

ARTICLE VIII—MODIFICATION

1. The President of the United States may, from time to time, cancel or modify any order, approval, license, rule, or regulation issued under Title I of the Act.

2. Nothing in this Code, however, shall be construed as authorizing or consenting to the imposition of any requirement which is in conflict with the Radio Act of 1927, as amended, or the rules and regulations promulgated thereunder.

ARTICLE IX—MONOPOLIES, ETC.

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 X—EFFECTIVE DATE

This Code shall become effective on the second Monday after its approval by the President.

Approved Code No. 129
Registry No. 1742-09



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