

**NATIONAL RECOVERY ADMINISTRATION**

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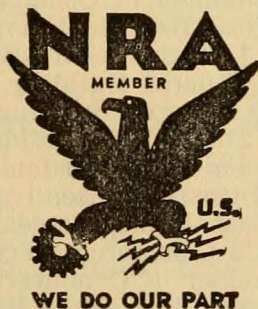
**SUPPLEMENTARY  
CODE OF FAIR COMPETITION**

**FOR THE**

**WHOLESALE DRY GOODS  
TRADE**

**(A Division of the Wholesaling or Distributing Trade)**

**AS APPROVED ON MAY 14, 1934**



**INCLUDES AMENDMENT NO. 1**

**UNITED STATES  
GOVERNMENT PRINTING OFFICE  
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APPROVED CODE NO. 201—SUPPLEMENT NO. 8

SUPPLEMENTARY CODE OF FAIR COMPETITION

FOR THE

WHOLESALE DRY GOODS TRADE

As Approved on May 14, 1934

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ORDER

SUPPLEMENTARY CODE OF FAIR COMPETITION FOR THE WHOLESALE DRY  
GOODS 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 Wholesale Dry Goods 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; provided, however, that the provisions of Article V are approved for a period of ninety (90) days only, subject to further order at that time as a result of study made of the operation of said provisions.

HUGH S. JOHNSON,  
*Administrator for Industrial Recovery.*

Approval recommended:

H. O. KING,  
*Division Administrator.*

WASHINGTON, D.C.,  
*May 14, 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 Wholesale Dry Goods Trade, conducted in the Chinese Room of the Mayflower Hotel, on December 20, 1933. The Supplemental Code, which is attached, was presented by a duly qualified and authorized representative of the Trade.

### THE TRADE

According to statistics furnished by members of the Wholesale Dry Goods Trade, there are approximately 1071 establishments with aggregate annual sales of \$890,000,000. The Trade employs about 26,000 persons. It should be noted that these figures include what is known to the Trade as General Line Wholesalers.

### PROVISIONS OF THE CODE

Since this Code is supplemental to the Code of Fair Competition for the Wholesaling or Distributing Trade, it contains no labor provisions.

The provisions containing supplemental definitions are considered inclusive and accurate.

The supplement to the Administrative provisions of the General Code establishes a Divisional Code Authority which is fairly and adequately representative of all the different elements in the Trade.

The Trade Practices are not considered in any way objectionable. The provision regarding sales below cost is designed to protect the producer as well as the members of this Trade. This provision has been thoroughly probed and it is felt that the result gives very adequate consumer protection.

### 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 organization of industry for the purpose 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 it 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 on admission 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.*

MAY 14, 1934.



# SUPPLEMENTARY CODE OF FAIR COMPETITION FOR THE WHOLESALE DRY GOODS TRADE

## A DIVISION OF THE WHOLESALE OR DISTRIBUTING TRADE

### ARTICLE I—PURPOSES

To further effectuate the policies of Title I of the National Industrial Recovery Act the following provisions are established as a Supplemental Code of Fair Competition for the Wholesale Dry Goods Trade to the Code of Fair Competition for the Wholesaling or Distributing Trade as provided by Article VI, Section 1 (c) thereof and shall be considered a part of and in connection with such Wholesaling or Distributing Code. Both Codes shall be binding upon every member of the Wholesale Dry Goods Trade.

### ARTICLE II—DEFINITIONS

#### SUPPLEMENTING ARTICLE II OF THE GENERAL CODE

*Wholesaler or Distributor.*—The term “wholesaler” or “distributor” as used herein, is defined to mean a person or firm or division thereof, definitely organized to render and rendering a general distribution service, which buys and maintains at his or its place of business a stock of dry goods or of one or more lines of dry goods (except when the provisions of Article VI become applicable) and which through salesmen, advertising and/or sales promotion devices sells to retailers and/or to institutional, commercial, and/or industrial users; but which does not sell in significant amounts to ultimate consumers.

*Member of the Trade.*—The term “member of the Trade” as used herein, is defined to mean a “wholesaler” or “distributor” as defined above.

*Dry Goods.*—The term “dry goods”, as used herein, is defined to mean textiles, apparel, and the miscellaneous products of industry generally classed as novelties, notions, and kindred lines.

*National Wholesaler.*—The term “national wholesaler”, as used herein, is defined to mean a person or firm or division thereof, which sells dry goods at wholesale predominantly in fifteen or more of the states and/or territorial possessions of the United States.

*Territorial Wholesaler.*—The term “territorial wholesaler”, as used herein, is defined to mean a person or firm, or division thereof, which sells dry goods at wholesale predominantly in less than fifteen of the states and/or territorial possessions of the United States.

*Specialty Wholesaler.*—The term “specialty wholesaler”, as used herein, is defined to mean a person, firm or division thereof, which deals at wholesale in one or more lines of dry goods, but does not deal in a general line.



*Divisional Code Authority.*—The term “Divisional Code Authority”, as used herein, is defined to mean the Divisional Code Authority for the Wholesale Dry Goods Trade, a division of the Wholesaling or Distributing Trade.

*General Code.*—The term “General Code”, as used herein, is defined to mean the Code of Fair Competition for the Wholesaling or Distributing Trade.

*Consignment.*—The term “consignment”, as used herein, is defined to mean the delivery by a distributor to any person, agent, purchaser, or otherwise under any agreement or understanding, expressed or implied, pursuant to which the seller retains any lien upon or title to or interest in the goods delivered for the primary purpose of allowing such goods to be returned as unsold.

### ARTICLE III—ADMINISTRATION

#### SUPPLEMENTING ARTICLE VI, SECTION 2 (E) OF THE GENERAL CODE

SECTION 1. (a) For the purpose of administration, the Dry Goods Division of the Wholesale Trade may be sub-divided into specific commodity subdivisions, the following being authorized upon the approval of this Supplemental Code:

1. A Hosiery and Underwear division.
2. A Piece Goods division.
3. A Notions division.
4. A Men's Furnishings division.
5. A Knitted Outerwear division.
6. A Ready-to-wear division.
7. A House Furnishings division.

Additional subdivisions may be made when and as approved by the Administrator.

(b) Each of these subdivisions, subject to the approval or consent of the Administrator, shall be entitled to appoint a representative on the General Code Authority established by the General Code.

SECTION 2. (a) The Divisional Code Authority for the Dry Goods Division of the Wholesaling or Distributing Trade shall be composed of not less than nineteen (19) nor more than twenty-one (21) members; one for each of seven (7) territorial membership zones as established by the Wholesale Dry Goods Institute; one for each of the subdivisions established in Section 1 (a) of this Article and five (5) to be appointed by the Board of Directors of the Wholesale Dry Goods Institute.

(b) The members of the Divisional Code Authority shall be elected as follows:

1. The Board of Directors of the Wholesale Dry Goods Institute shall send to every member of the Trade discoverable by diligent search a nominating ballot upon which the member of the Trade may enter nominations for the members of the Divisional Code Authority for the territorial district and commodity subdivision to which he belongs. To each ballot shall be attached a statement of assent and compliance to this Supplemental Code and to the General Code.

2. Fifteen days after the mailing of such ballots the Board of Directors of the Wholesale Dry Goods Institute shall publicly count



the votes then in its possession. Only those ballots which are accompanied by a signed statement of assent and compliance shall be counted. The two persons in each territorial district and in each commodity subdivision receiving the highest number of votes shall be declared to be the nominees.

3. The Board of Directors of the Wholesale Dry Goods Institute shall then prepare ballots including the names of these nominees. The procedure followed in mailing these ballots shall be the same as that described in subsection (b) 1, above.

4. Fifteen days after the mailing of such ballots the Board of Directors of the Wholesale Dry Goods Institute shall publicly count the votes then in its possession. Only those ballots shall be counted which are accompanied by a signed statement of assent and compliance or by a letter stating that the voter has previously filed such a statement with said Board of Directors. The person in each territorial district and in each commodity subdivision who receives the highest number of votes shall be declared elected.

5. The Board of Directors of the Wholesale Dry Goods Institute shall make certification to the Administrator of its compliance with the above method of election and of the results thereof.

SECTION 3. (a) The Divisional Code Authority may appoint for each commodity subdivision a Control Committee of five members which shall include one representative of specialty wholesalers, one representative of territorial wholesalers and one representative of national wholesalers.

(b) The several Control Committees shall have such duties and powers as may be delegated to them by the Divisional Code Authority but nothing herein shall be construed to relieve the Divisional Code Authority of any of its duties or responsibilities as such.

(c) The Divisional Code Authority may appoint a regional agent, or agents, in each of such regions as it may establish, to assist it in administering the Supplemental Code, provided however, that nothing herein shall relieve the Divisional Code Authority of its responsibilities as such.

(d) The Divisional Code Authority shall appoint a Trade Practice Committee, which shall meet with the Trade Practice Committees appointed under such other Codes as may be related to the Trade, except those appointed under 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 amendments to this Supplemental Code and such other Codes.

(e) The Divisional Code Authority shall have power to organize, elect officers, hire employees, and perform such other acts as may be necessary for the proper administration of the Supplemental Code and the General Code.

(f) (1) *It being found necessary in order to support the administration of this Code and to maintain the standards of fair competition established hereunder and to effectuate the policy of the Act, the Code Authority is authorized:*



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

c. *After such budget and basis of contribution have been approved by the Administrator, to determine and obtain equitable contribution as above set forth by all members of the Trade, and to that end, if necessary, to institute legal proceedings therefor in its own name.*

(2) *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 expense of its administration as hereinabove provided, unless duly exempted from making such contributions, 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.*

(3) *The Divisional Code Authority shall neither incur nor pay any obligation substantially in excess of the amount thereof as estimated in its approved budget, and shall in no event exceed the total amount contained in the 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.<sup>1</sup>*

SECTION 4. Any person or firm now or hereafter engaged in the wholesale distribution of dry goods and related lines as herein found is eligible for and shall be admitted to membership in the Wholesale Dry Goods Institute upon payment of dues and agreement to comply with the Constitution and the by-laws thereof.

SECTION 5. Nothing contained in this Supplemental Code shall constitute the members of the Divisional Code Authority partners for any purpose nor shall any members of the Divisional Code Authority be liable in any manner to anyone for any act of any other members, officers, agents, or employees 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 misfeasance or nonfeasance.

SECTION 6. 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

<sup>1</sup> Italicized words added by Amendment No. 1, approved Sept. 14, 1934.



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.

#### ARTICLE IV—TRADE PRACTICES

##### SUPPLEMENTING ARTICLE VII OF THE GENERAL CODE

The following practices constitute unfair methods of competition:

1. To deliver merchandise on any basis other than F.O.B. the city in which the wholesaler is located or, in case of direct shipments, F.O.B. city where factory is located.

Free deliveries of merchandise may be made by a wholesaler within but not beyond the metropolitan area of the city in which the wholesaler is located. The Divisional Code Authority may define the metropolitan area in any specific case.

This rule does not apply to those items on which it is the trade practice of the manufacturer to prepay transportation charges to the retail store on goods sold by the wholesaler.

2. To place merchandise on consignment except under circumstances to be defined by the Divisional Code Authority when peculiar circumstances of the Trade make the practice desirable.

3. To grant rebates, bonuses, trade discounts, buyers' expense allowances, delivery allowances, storage allowances, overshipments without charge, gifts, advertising allowances or other tangible inducement or economic advantage to any customer unless such rebates, bonuses, trade discounts, buyers' expense allowances, delivery allowances, storage allowances, overshipments without charge, gifts, advertising allowances, or other tangible inducement or economic advantages are available to all other customers of the same class in all territories on like terms and conditions.

4. To sell any merchandise unless the same shall bear a descriptive number or name.

5. To allow or to refund personal transportation costs or any part thereof to customers or prospective customers, or their agents or employees.

6. To sell goods on terms which permit the extension of net due date, cash discount, special dating, or anticipation interest allowances greater than those established for the several lines of merchandise by the Divisional Code Authority and approved by the Administrator.

7. (a) To sell any merchandise at less than a price which includes net invoice purchase price, plus incoming transportation costs.

(b) Nothing herein shall prohibit sales made in good faith to anticipate changing market conditions or to maintain clean and well balanced stocks of merchandise. Such sales shall be immediately reported to the Divisional Code Authority. Upon demand by the Divisional Code Authority any wholesaler making such sale shall supply proof that such sale was made in good faith.



ARTICLE V—PERMISSIVE TRADE PRACTICES <sup>2</sup>

## SUPPLEMENTING ARTICLE VIII OF THE GENERAL CODE

Section 1. (a) No wholesaler shall sell or offer to sell to any purchaser of a product upon which the manufacturer thereof shall have granted to such wholesaler a fair price differential as provided by Article VIII Section 1 of the General Code, a lower price than that quoted on such commodity by said manufacturer to the same class of purchasers.

(b) If such differential is greater than the operating cost of any member of the Trade such member of the Trade shall be permitted, upon furnishing proof of his lower operating cost to the Divisional Code Authority, to sell at less than the differential so established but not less than his invoice cost plus said operating cost.

(c) Any member of the trade may sell at a price lower than that established in paragraph (a) of this Section in order to meet the competition of any other member of the trade who is permitted under paragraph (b) of this Section to reduce his price below that established in paragraph (a) of this Section.

(d) The Administrator may, from time to time, collect statistics of the operating expenses of the members of the Trade. If such investigation shall show that the price differential established under paragraph (a) above is in any way inequitable or unduly high in relation to the wholesaler's operating costs, or tends to enhance the price of the product to buyers or ultimate consumers, the Administrator may, after proper notice and hearing, suspend it or declare it permanently inoperative.

(e) An exception to the rule in paragraph (a) of this Section may be granted by the Divisional Code Authority in case a wholesaler wishes to discontinue handling a manufacturer's line and has stock on hand to be disposed of. In such case the manufacturer shall be given the option of taking back at the manufacturer's then market price the wholesaler's stock on hand or any portion thereof. If the manufacturer fails to exercise this option within ten days after written notice by the wholesaler of his intention to discontinue handling that line, the wholesaler may proceed to dispose of the stock at any price he may desire.

## ARTICLE VI—APPLICATION OF THIS SUPPLEMENTAL CODE

Whenever any Supplemental Code is approved for wholesalers who specialize in a particular type of dry goods, such specialty wholesalers shall no longer be subject to this Supplemental Code; provided, that only upon order of the Administrator shall the sale of such specialty products by wholesalers governed by this Supplemental Code be governed by the trade practice provisions of such dry goods specialty Supplemental Codes.

## ARTICLE VII—EFFECTIVE DATE

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

Approved Code No. 201. Supplement No. 8.  
Registry No. 229-3-06.

<sup>2</sup> See paragraph 2 of order approving this Code.



















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