

NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

FOR THE

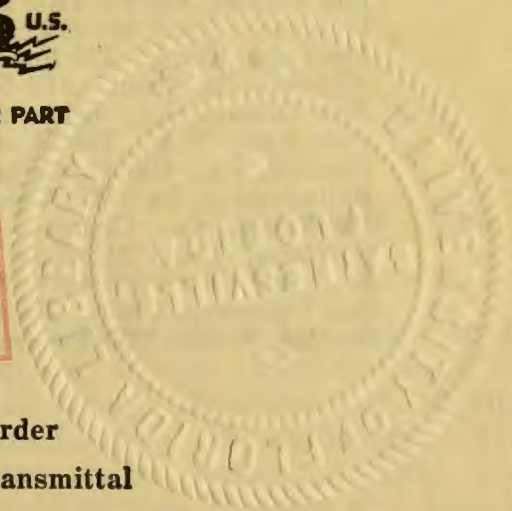
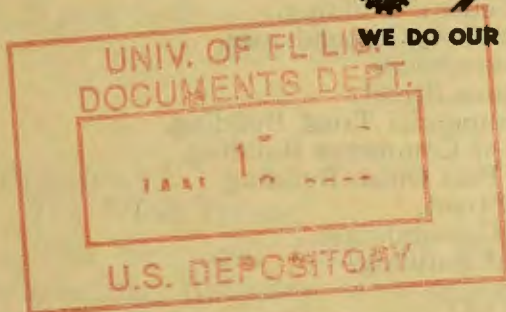
CROWN MANUFACTURING

INDUSTRY

AS APPROVED ON NOVEMBER 1, 1933
BY
PRESIDENT ROOSEVELT



WE DO OUR PART



- 1. Executive Order**
- 2. Letter of Transmittal**
- 3. Code**

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(II)

EXECUTIVE ORDER

CODE OF FAIR COMPETITION FOR THE CROWN MANUFACTURING INDUSTRY

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 Crown Manufacturing 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 adopt and approve the report, recommendations, and findings of the Administrator and do order that the said code of fair competition be and is hereby approved.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE,
November 1, 1933.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

OCTOBER 25, 1933.

The PRESIDENT,
The White House.

SIR: The proposed Code of Fair Competition for the Crown Manufacturing Industry was submitted to the Administrator on August 9, 1933, by the Crown Manufacturers' Association of America representing 93% of the known members of the Industry. The Hearing was conducted in Washington on September 15, 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 properly heard in accordance with statutory and regulatory requirements.

The Industry is relatively small, having in 1929 only 1,640 employees and is distinguished from the Cap and Closure Industry in that it is engaged in the manufacture of beverage-bottle closures which are fabricated from cork and metal and are used principally upon pressure beverages.

During the past four years the Industry experienced a drop of approximately 31% in the unit volume of sales. This was coincident with the drop of 30% in the number of employees. It is estimated

that the insertion of the Labor Provisions of this Code will necessitate a 66% increase in employment over the average number employed in 1932 and that \$850,000 will be added to the yearly pay roll.

RÉSUMÉ OF CODE

ARTICLE I. States the purpose of the Code.

ART. II. Accurately defines specific references made in the Code.

ART. III. Sets forth the Mandatory Labor Provisions, minimum age requirements, maximum hours, and minimum wage rates. The maximum hours are limited to 40 per week for factory employees averaged over a six months' period, but are not to be in excess of 48 hours in any one week. Power plant firemen, and engineers, employees engaged in emergency maintenance and emergency repair work, and highly skilled artists and metal lithographers (the latter are restricted to a maximum of 54 hours in any one week) are excepted from the above provisions, but in all cases where the above employees are required to work in excess of 40 hours in any one week, the wages paid shall be at a rate of not less than one and one third times the prevailing rate. The maximum hours for accounting, clerical, office, service, and sales employees (except outside salesmen) are limited to 40 hours per week except that in not more than six weeks in any six months' period such employees shall be permitted to work 48 hours per week.

The minimum wage rate for factory, mechanical, and artisan employees is 40¢ per hour for male labor and 35¢ per hour for female labor. The minimum wage rate for accounting, clerical, office, service, and sales employees (except outside salesmen) varies from \$15.00 to \$14.00 with the population. Apprentices and learners without previous experience may not constitute more than 5% of the total number of employees and their wages shall not be less than 80% of the specified minimums. The period of apprenticeship and learning is limited to one month. Higher-paid employees are protected by an equitable readjustment clause.

ART. IV. Establishes a Code Authority of five members elected by the Industry with additional (not exceeding three) representatives to be appointed by the Administrator and provides machinery for obtaining statistics.

ART. V. Establishes an open-price structure with no limitation placed upon the prices any firm may quote.

ART. VI. Excepts export sales from the provisions now included or hereafter to be included in Article V.

ART. VII. Sets forth the Fair Trade Practices for the Industry.

ART. VIII. Contains the mandatory provisions respecting amendments and provisions respecting state laws and price increases on the products of the Industry.

ART. IX. Sets forth the action to be followed in the event of a violation of the Code.

ART. X. States the effective date.

FINDINGS

The Administrator finds: 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 Crown Manufacturers Association of America is truly representative of the Crown Manufacturing Industry and the bylaws of this Association contain no inequitable restrictions on 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 Recovery Act.

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

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION FOR THE CROWN MANUFACTURING INDUSTRY

AS REVISED ON OCTOBER 25, 1933

ARTICLE I—PURPOSE

To effectuate the policy and purpose of the National Industrial Recovery Act the following provisions are established as a Code of Fair Competition for the Crown Manufacturing Industry, and shall be binding on every member thereof.

ARTICLE II—DEFINITIONS

SECTION 1. The term "the Industry" means and includes the business of producing in the United States and selling crown caps.

SEC. 2. The term "member of the Industry" means any person engaged in the Industry as herein defined either as an employer or on his own behalf.

SEC. 3. The term "The Association" means the Crown Manufacturers Association of America, 218 Munsey Building, Washington, D.C.

SEC. 4. The terms "President", "Act", and "Administration" as used herein shall mean respectively the President of the United States, the National Industrial Recovery Act, and the Administrator of said Act.

SEC. 5. The term "employee" as used herein includes anyone engaged in the industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.

SEC. 6. The term "employer" as used herein includes anyone by whom any such employee is compensated or employed.

SEC. 7. The term "plant" means a plant engaged in the Industry as herein defined.

SEC. 8. "Majority Vote." Each member of the Industry shall be entitled to one vote for each full million gross of shipped sales reported for the previous calendar year; provided, that no member shall have more than five votes; and further provided, that each member shall have at least one vote irrespective of the shipped sales grossage reported for the previous calendar year.

At any meeting of members of the Industry, members thereof having the right to cast at least 60% of all the votes shall constitute a quorum. Fifty-one percent (51%) of the votes which would be cast if all members were present shall constitute a majority vote.

SEC. 9. The term "Code Authority" means the Administrative body provided for in Article IV of this Code.

ARTICLE III.—LABOR PROVISIONS

SECTION 1. 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.

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.

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

Sec. 2. No person under 16 years of age shall be employed in the industry, nor anyone under 18 years of age at operations or occupations hazardous in nature or detrimental to health. 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.

SEC. 3. *Hours.*—(a) The maximum number of working hours for all employees in the Industry, except as hereinafter provided, shall not be in excess of forty (40) hours per week averaged over a six months' period, and not in excess of forty-eight (48) hours in any one week. For the purpose of this paragraph, the balance of the year 1933, from the effective date of this Code to December 31, 1933, inclusive, shall be considered the first period. Subsequent periods shall begin on January 1st, and July 1st, to end on June 30th and December 31st, respectively.

The maximum hours fixed in the foregoing paragraph shall not apply to the following employees:

Highly skilled artists and metal lithographers where restrictions of hours would unavoidably reduce production, but no such employees shall work or be permitted to work in excess of fifty-four (54) hours in any one week;

Power plant firemen and engineers;

Employees engaged in emergency maintenance and emergency repair work involving breakdowns or protection of life and/or property.

Not less than time and one-third time shall be paid for hours worked in excess of forty (40) hours in any one week.

(b) Office or Branch Employees: The maximum number of working hours for office or branch employees in the Industry shall not be in excess of forty (40) hours per week; provided, however, that any such employee may be permitted to work not more than forty-eight hours per week in not more than six weeks of any six months' period.

(c) The provisions of this section shall not apply to executives and their personal secretaries, and supervisors and their immediate assistants having supervisory duties (excepting foremen regularly engaged in manual labor receiving less than \$35.00 per week), outside salesmen, technical employees, and watchmen; provided, however, that watchmen shall be limited to fifty-four (54) hours per week and provided further that the limitation of hours prescribed in this sec-

tion shall apply to all proprietors, executives, partners and supervisors when they shall be engaged in production or mechanical work.

(d) The Industry recognizes the desirability, and accepts the principle of, the five-day week as these principles relate to working schedules for employees. Insofar as it reasonably can, the Industry will endeavor to employ its labor on that basis.

(e) No employee shall be permitted to work for two or more employers for a longer period in any week than is specified herein for a single employer.

SEC. 4. *Wages*.—No employer shall pay any accounting, clerical, office, service, or sales employee (except outside salesmen) less than at the rate of \$15.00 per week in any city of over 500,000 population, or in the immediate trade area of such city; nor less than at the rate of \$14.50 per week in any city of between 250,000 and 500,000 population, or in the immediate trade area of such city; nor less than at the rate of \$14.00 per week in any city or town of 250,000 or less population.

SEC. 5. No employer shall pay any male factory or mechanical worker or artisan less than forty (40¢) cents per hour or any female factory or mechanical worker or artisan less than thirty-five (35¢) cents per hour; provided that when the Code for the Graphic Arts is approved, there shall be a review of the provisions relating to maximum hours, minimum wages, and conditions of employment applicable to the employees in the Crown Manufacturing Industry engaged in work similar to that covered by the Code for the Graphic Arts. It is agreed that this paragraph establishes a guaranteed minimum rate of pay regardless of whether the employee is compensated on the basis of a time rate or on a piecework performance.

Female employees doing substantially the same work as that performed by male employees shall receive a rate of compensation equal to that of such male employees.

Apprentices and learners without previous experience in the Industry shall be excepted from the provisions of this Section; provided, however, that the total number of such apprentices and learners shall not constitute more than five (5%) percent of the total number of employees subject to the provisions of this Code in any one plant, and provided, further, that the wages paid to such apprentices and learners shall not be less than eighty (80%) percent of the minimum rates of pay specified in this Code; and, provided further, the period of apprenticeship or learning shall not exceed one month.

SEC. 6. The wage differentials for all operations shall be equitably readjusted and in no case shall they be decreased. Each member of the Industry shall report all such readjustments to the Code Authority within thirty days of the effective date.

SEC. 7. Each employer shall post in conspicuous places full copies of the Labor Provisions of this Code (Article III and Article VIII, Section 2).

ARTICLE IV.—ADMINISTRATION

SECTION 1. To effectuate the policies of the National Industrial Recovery Administration and to provide for administration of this Code within the Industry, a Code Authority of five members shall be established by the Industry. Furthermore, upon the request of the Administrator, nonvoting representatives not to exceed three in

number, to be appointed by him, shall be added to such Code Authority. All employers engaged in the Industry as herein defined shall be entitled to participate in the election of such members of the Code Authority. Such election shall be by a majority as defined in Section 8 of Article II. The Administrator upon review may disapprove or modify the method of selection of the Code Authority.

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 bylaws, 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.

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.

SEC. 2. The Code Authority shall have the following duties and powers to the extent permitted by the Act, subject to the right of the Administrator on review to disapprove or modify any action taken by the Code Authority:

(a) The Code Authority shall be charged with the supervision, administration, and enforcement of this Code and may issue such rules, regulations, and impose upon any member of the Industry subject to the jurisdiction of this Code such restrictions as may be necessary to effectuate the purposes of this Code. The Code Authority shall have the right to establish its own rules for the conduct of its business.

(b) In order that the President may be informed of the extent of observance of the provisions of this Code and of the extent to which the declared policy of the National Industrial Recovery Act is being effectuated in the Industry as herein defined, the Code Authority shall make such reports as the Administrator may require, and each member of the Industry shall make such sworn or unsworn reports to the Code Authority periodically, or as often as it may direct, on wages, hours of labor, conditions of employment, number of employees, production, shipments, sales, stocks, prices, and other matters pertinent to the purposes of this Code as the Code Authority may require, and each member of the Industry subject to the jurisdiction of this Code and accepting the benefits of the activities of the Code Authority hereunder shall either become a member of the Association or pay to the Code Authority his proportionate share of the amounts necessary to pay the cost of the assembly, analysis and publication of such reports and data, and of the maintenance of the said Code Authority and its activities. Said proportionate share shall be based upon volume of net sales.

In addition to information required to be submitted to the Code Authority, there shall be furnished to Government Agencies such statistical information as the Administrator may deem necessary for

the purposes recited in Section 3 (a) of the National Industrial Recovery Act.

(c) The Code Authority shall appoint a secretary and any and all information requested by the Code Authority shall be filed with the secretary and deemed confidential and shall not be divulged to any member except in summary, but shall be available to the Administrator upon request.

(d) The Code Authority may designate the Crown Manufacturers' Association or any other appropriate agency to assist it in carrying out the powers and duties conferred upon it by this Code, provided, that the Code Authority shall not be relieved of responsibility and that when such Association acts in such capacity, it shall comply with all the provisions of this Code applicable to the Code Authority.

(e) The Code Authority may from time to time appoint such subcommittees or designate such agencies, and may delegate to any of them such of its powers and duties, as it shall deem necessary or proper in order to effectuate the provisions and purposes of this Code.

(f) The Code Authority shall receive, and if it shall approve, shall present for the approval of the Administrator, any proposals for supplementary provisions or amendments of this Code or additional codes, applicable to the Industry defined herein or to any part thereof, with respect to wages, hours, trade practices, or related matters or conditions in the Industry.

SEC. 3. (a) Any interested party shall have the right of complaint to the Code Authority and of a prompt hearing and decision thereon in respect to any decision, rule, regulation, or other course of action of such Code Authority. Such complaint must be filed in writing with the Code Authority within a reasonable period of time after said decision, rule, regulation, or course of action is issued or taken. The decision of such Code Authority may be appealed by any interested party to the Administrator.

SEC. 4. Any decision, rule, regulation, order, or finding made, or course of action followed pursuant to, or any provision of, this Code, may be cancelled or modified by the Administrator whenever he shall determine such action necessary to effectuate the provisions of Title I of the National Industrial Recovery Act.

ARTICLE V—OPEN PRICE DATA

SECTION 1. Each member of the Industry shall within ten days after the effective date of the Code file with the Secretary as many copies of its minimum price schedule for all its crowns including discounts, allowances, terms, and all conditions of sale as the Secretary shall require, and from and after the expiration of such ten days such member shall at all times maintain on file with the Secretary such a minimum price schedule for all its crowns and shall not sell below and shall not make any change in such minimum price schedule except as herein provided.

SEC. 2. The date of filing shall be the effective date of the first price schedule. Any member of the Industry desiring to change such minimum price schedule shall file a revised minimum price schedule with the Secretary which shall become effective not less than ten days after and exclusive of the date of filing thereof (Sundays

and holidays excluded). All minimum price schedules so filed shall be open to inspection at all times by all interested parties.

SEC. 3. Upon the filing of a revised minimum price schedule, copies thereof shall immediately be sent to all members of the Industry, who thereupon may file, if they so desire, revisions of their minimum price schedule which shall become effective upon the date when the revised minimum price schedule first filed shall go into effect.

SEC. 4. None of the prices shown in any minimum price schedule shall be changed except by the filing of a new minimum price schedule as provided in Section 2.

SEC. 5. Each member of the Industry may execute an agreement in form prescribed by the Code Authority with each Sales Agent, Jobber, Broker, or Distributor representing or reselling crowns of such member, requiring each of them to file with the Secretary minimum price schedules at which such sales agent, jobber, broker, or distributor shall sell crowns. Such agreement shall provide that any sales agent, jobber, broker, or distributor desiring to change such minimum price schedule shall file a revised minimum price schedule with the Secretary which shall become effective not less than ten days after and exclusive of the date of filing thereof (Sundays and holidays excluded). All minimum price schedules so filed shall be open to inspection at all times. Neither the forms of agreement prescribed or any modification thereof shall become effective until approved by the Administrator.

ARTICLE VI—EXPORTS

Except as may be subsequently set forth in a specific or supplementary export code for the Industry, the provisions of this Code now included or hereafter to be included in Article V shall not apply to direct export sales or to sales in course of export (i.e., sales of crowns as such destined ultimately for export). The term "export" shall include, in addition to shipments to foreign countries, shipments to such United States possessions as may be defined by the Code Authority.

ARTICLE VII—TRADE PRACTICES

The following practices constitute unfair methods of competition for members of the Industry and are prohibited:

SECTION 1. The secret payment or allowance of rebates, refunds, commissions, credits, or unearned discounts, whether in the form of money or otherwise, or the secret extension to certain purchasers of special services or privileges not extended to all purchasers on like terms and conditions.

ARTICLE VIII—GENERAL

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

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

SEC. 2. Within each State this Code shall not supersede any laws of such State imposing more stringent requirements regulating the age of employees, wages, hours of work, or health, welfare or general working conditions, than are imposed by this Code.

SEC. 3. Any member of the Industry shall be eligible to membership in the Association and there shall be no inequitable restrictions imposed upon such membership.

SEC. 4. 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.

SEC. 5. Prior to December 31, 1933, no member of the Industry shall increase the sale price of his product sold after the effective date hereof over the price on July 1, 1933, by more than is made necessary by actual increases in manufacturing, distribution, and material cost, or by taxes or other costs resulting from action taken pursuant to the Agricultural Adjustment Act and/or this Code since July 1, 1933, and in setting such price increases, full weight shall be given to probable increases in sales volume. In case a member of the Industry on July 1, 1933, was selling his product at less than actual cost, he may take his cost price on that date as the base for such increase in selling price as is permitted by this Section.

ARTICLE IX—VIOLATIONS

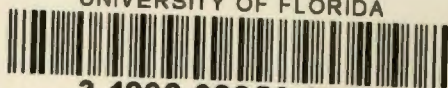
Violation by any employer of any provision of this Code or of any rule or regulation issued thereunder, or any deliberately false statement or report made to the President or the Code Authority, after decision thereon by the Administrator pursuant to Article IV of this Code, shall constitute an unfair method of competition and the offender shall be subject to the penalties provided by the National Industrial Recovery Act.

ARTICLE X—EFFECTIVE DATE

The Code shall become effective eleven (11) days after it is approved by the President.



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