

# The National Association of Broadcasters

NATIONAL PRESS BUILDING \* \* \* \* \* WASHINGTON, D. C.  
PHILIP G. LOUCKS, Managing Director

## NAB REPORTS

Copyright, 1933, The National Association of Broadcasters



Vol. 1 - - No. 46  
NOV. 27, 1933

### THE CODE—A CHALLENGE

The purpose of the Broadcasters' Code is to aid in eliminating from the Broadcasting Industry destructive and unfair practices, to bring about higher wages, shorter working hours, better living conditions for employees, to place the industry upon a sounder basis and to enable it better to render a public service.

When President Roosevelt signed the National Industrial Recovery Act on June 16 he characterized the new law as "a challenge" to industry which, he said, has long sought the right to self regulation.

Always mindful of their obligation to the public, broadcasters willingly and generously extended their facilities in order that the American people might be fully informed of the progress of the President's recovery program. They have cooperated with the National Recovery Administration by reducing hours of work and by increasing wages in keeping with the spirit of the President's reemployment campaign. And now, by adopting the Code of Fair Competition for the Broadcasting Industry, approved today by President Roosevelt, they give further testimony of their complete support of the recovery program.

The Broadcasting Industry accepts the "challenge."

### BROADCASTERS' CODE APPROVED

President Roosevelt on November 27 approved the Code of Fair Competition for the Broadcasting Industry and its provisions become applicable to every broadcasting station in the United States on December 11.

The signing of the Broadcasters' Code took place at Warm Springs, Ga., during the week-end visit there of General Hugh S. Johnson, National Recovery Administrator.

Official prints of the text of the Code will be available for distribution within the next few days. These will be punched for insertion in the NAB Handbook.

### CODE AUTHORITY APPOINTED

At the time the President signed the Code, he appointed as members of the Broadcasters' Code Authority the following:

James W. Baldwin, former Secretary of the Federal Radio Commission; Isaac Z. Buckwalter, WGAL, Lancaster, Pa.; John Elmer, WCBM, Baltimore, Md.; James Kiernan, WLWL, New York, N. Y.; Alfred J. McCosker, WOR, Newark, N. J.; Edward M. Nockels, Secretary of the Chicago Federation of Labor; M. R. Runyon, Treasurer of the Columbia Broadcasting System; Frank M. Russell, Vice President of the National Broadcasting Company; John Shepard, III, President of the Yankee Network.

The Code provides that there shall be named three representatives of the Government in addition to the Code Authority. It is expected that these representatives will be named within the next few days.

The first meeting of the Code Authority will be held on Monday, December 4, at Washington, D. C.

A complete analysis of the wage and hours provisions of the Code as approved precedes a copy of the President's Executive Order in this report.

### MAY ADOPT PERMANENT CODE

Under the rules of the NRA all stations (subject to the provisions of Article V, Paragraph 5) may immediately adopt the provisions

of the Broadcasters' Code. The entire industry, however, will be under the Code effective December 11.

Each provision in the Code has the full effect of law and violations are subject to the penalties contained in the National Industrial Recovery Act.

### PROPOSED CODE IS REVISED

The Code of Fair Competition proposed by the NAB on August 29, copies of which were sent to all broadcasters, was subjected to extensive revision before it was given Presidential approval. While a number of these were insisted upon by the various divisions of the NRA, the most important resulted from objections by labor groups interposed at the public hearing held in Washington on September 27. Following the hearing conferences were held almost daily between representatives of the NRA, labor, and the NAB. Each provision in the Code, as finally revised, was the subject of extensive discussion, and in many instances the final wording was either the result of compromise or decision by the NRA after objection by one or the other of the groups participating in the conferences.

### SEVERAL ISSUES UNSETTLED

Several important issues could not be decided and for that reason provisional clauses were inserted in the Code. It was held that the NAB, although it represented 283 stations and 83 per cent of the total volume of radio advertising, was not sufficiently representative of the broadcasting industry to take over administration of the Code. It was necessary, therefore, for the President of the United States to name a temporary Code Authority to administer the Code until such time as the NAB can sign as members at least 70 per cent of all stations. The NRA found, however, that the NAB does not impose inequitable restrictions upon membership and it is the hope of officials of the NRA that NAB membership will be increased within the next 90 days to a point where the industry can take over complete administration of its own Code.

### NAB MUST INCREASE MEMBERSHIP

It is the policy of the NRA that existing trade associations strengthen their position and regulate their own industries. At the same time it was made clear in an official statement by General Johnson last week that the Government will not hesitate to step in and administer the Code if the broadcasters fail to fall in line behind the NAB. The Code Authority appointed by the President is under an injunction to recommend a permanent Code Authority at a future date. This was done for the purpose of enabling the NAB to strengthen its membership under its new Constitution and By-Laws, which provide a system of dues based upon two-tenths of one per cent of net sales of broadcasting facilities.

### SIGNATURES WILL BE REQUESTED

It is expected that the NRA will require the Code Authority to obtain the signatures of all stations to the Code in its approved form. The request will go forward just as soon as the Code Authority has had an opportunity to organize and get into action.

### LICENSE QUESTION UNSETTLED

The question of extending station license terms to the full period granted by the Radio Act of 1927 was raised by the NAB early in the Code proceedings. Although expressing sympathy with the industry's position, officials of the NRA quickly pointed out that



since the Radio Act of 1927 lodged the licensing power with the Federal Radio Commission, the NRA was helpless to do anything about the licensing question. Notwithstanding that the report of James W. Baldwin, industrial advisor, which report was approved by the NRA Industrial Advisory Board, emphasizes that "as a definite part of the national program of recovery and increased stability and confidence, the broadcasters are clearly entitled to the full term of license provided by Congress in the Radio Act of 1927" and that he could not "recommend that the radio broadcasting industry be required to make additional fixed and permanent commitments unless it first can be given the full measure of protection provided by law," the Commission has not as yet extended the terms of broadcast station licenses. The NAB has consistently advocated three-year license terms as the best means for bringing stability into the industry.

### LABOR PROVISIONS RESTRICTED

After it was considered that all conferences had been concluded, the NRA, over the protest of the NAB, inserted in Article V, Paragraph 5, a provision that "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."

### EQUITIES WILL GOVERN

It was argued by the NAB that the above provision would penalize the broadcaster, who in an endeavor to cooperate with the Administration, signed the blanket code, reduced hours of work to 40 and adjusted wages; and discriminate against him in favor of the broadcaster who did not sign the President's Reemployment Agreement. It was further argued that such a condition, if permitted to continue, would seriously affect competitive conditions between stations similarly situated. It was then agreed that the Administrator should have the power to make exceptions and upon the insistence of the NAB there was inserted in the Code the following provision:

"Where the operation of the provisions of this Code imposes 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."

### PERFORMERS DEMAND RECOGNITION

Disagreement arose over the inclusion of radio performers in the Code at the time of public hearing. Mrs. Annette R. Bushman, representing Allied Production Incorporated of New York, urged adoption of a provision in the Code setting minimum rates for actors and musicians. Her position was supported by Frank Gillmore, president of the Actors' Equity Association, who alleged that the industry was guilty of abuses concerning artists and their participation in rehearsals and auditions. His original proposal, which was modified later, provided that the minimum wage for broadcasting by actors in radio be \$25 for a sustaining hour or part thereof and \$50 for a commercial hour or part thereof. He demanded that for each broadcast two free rehearsals be given by actors of not more than three hours each and that half salaries be paid for additional rehearsals of not more than three hours. For broadcasting to make electrical transcriptions a minimum rate of \$150 was urged. He proposed that all auditions be paid at half of the minimum scale and that actors called to the studio be paid whether they go on the air or not.

This proposal met vigorous objection on the part of the NAB and after a number of lengthy conferences it was agreed that the whole subject should be made the subject of study by the Code Authority. As a result of these conferences Article VI, Section 3, was adopted.

### ARTA WANTS \$225 FOR OPERATORS

Hoyt S. Haddock, president of the American Radio Telegraphists Association, Inc., demanded a 36-hour week for broadcast technicians with twice the normal rate for overtime. He urged the adoption of a pay schedule for all stations, large and small, ranging

from \$150 to \$225 per month. This proposal also met with objection and was later discarded when it was shown that this organization was not representative of operators employed in the broadcasting industry.

### IBEW DEMANDS 40-HOUR WEEK

Thomas R. McLean, Radio Division, International Brotherhood of Electrical Workers, demanded \$40 pay for a 40-hour week for broadcast technicians at the hearing. He asserted that he represented by agreement 100 per cent of the stations in St. Louis, WCFL in Chicago, and WMCA, WAAT, and WHOM in Greater New York. He claimed to represent by membership: Chicago, 65 per cent; Fort Wayne, 100 per cent; Detroit, 90 per cent; Cleveland, 100 per cent; Akron, 100 per cent; Birmingham, 100 per cent; Jersey City, 100 per cent; Newark, 100 per cent; Kansas City, Kans., 100 per cent; Kansas City, Mo., 100 per cent. He purported to represent by signature stations in some 30 additional cities ranging from 75 to 100 per cent.

### WAGE DIFFERENTIAL OPPOSED

McLean maintained that the 40-hour week and \$40 wage should be applicable to both large and small stations and opposed any lower classification for small stations on the grounds that they employ fewer men.

The NAB stood on its original proposal and demanded that stations be classified with respect to their economic position. The clash which began at the hearing continued throughout conferences which lasted for more than six weeks. Finally, there was agreement on the establishment of a 48-hour week for operators and control men and a classification of minimum wages ranging from \$20 to \$40 a week depending upon the class of the employer-station.

However, as a result of these lengthy negotiations, it was agreed that 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."

### WCFL MAKES DEMANDS

During the hearing and in subsequent conferences, Benjamin F. Goldstein, representing the Chicago Federation of Labor, insisted upon a 40-hour week for all employees except radio operators and control men. With respect to operators and control men, the substitute code offered by the Chicago Federation of Labor proposed a 48-hour week. While the substitute code maintained the station differential proposed in the NAB draft it fixed as a minimum for operators and control men \$40 a week for large stations and \$25 for smaller stations. The minimum weekly wage for announcers and program production employees was fixed at \$35 in large stations and \$20 in the smaller stations, based on a 40-hour week. He advocated similar increases over the rates proposed by the NAB.

### WANTED RECORDS PROTECTED

Representing the leading phonograph record manufacturing companies, H. A. Huebner, attorney, New York, asked that the Code contain a provision making it an unfair trade practice and a violation of the Code for any broadcaster or network to broadcast records without the prior written consent of the manufacturer of such records. The NAB refused to agree to such a provision, arguing that if the phonograph record companies had any legal rights in the matter they should pursue such rights in the law courts and not ask the NRA to settle the issue for them.

### WOULD CONTROL ALL ADVERTISING

The proposal of the American Home Economics Association that there be included in the Code a fair trade practice provision barring "the broadcasting of any false representation regarding goods and services or any representations which may by ambiguity or inference mislead the hearer regarding the value of such goods or services" was rejected after it had encountered vigorous objection from the NAB. It was argued by the NAB that inclusion of such a provision would place the broadcasting industry at a disadvantage unless all other advertising media were under a similar regulation. It was argued further that the manufacturer, rather than the media, was the responsible party if such advertising practices existed.



Chart showing **LABOR and WAGE Provisions of Broadcasters' Code**

MINIMUM WAGES	Clear Channel Station	High Power Regional Station	Clear Channel Part-time Station	Low Power Regional Station	Low Power Regional Part-time Station	Local Un- limited Station	Local Part Time Station
<i>Broadcast Operators and Control Men:</i>							
(a) If more than three operators and control men were regularly employed on July 1, 1933, the minimum weekly wage is.....	\$40.00	\$40.00	\$30.00	\$30.00	\$20.00	\$20.00	\$20.00
(b) If not more than three operators and control men were regularly employed on July 1, 1933, the minimum weekly wage is.....	\$20.00	\$20.00	\$20.00	\$20.00	\$20.00	\$20.00	\$20.00
(c) Apprentices.....	\$12.00	\$12.00	\$12.00	\$12.00	\$12.00	\$12.00	\$12.00
<i>Announcers, and program production employees:</i>							
(a) If more than 10 employees were regularly employed on July 1, 1933, the minimum weekly wage is.....	\$20.00	\$20.00	\$20.00	\$20.00	\$20.00	\$20.00	\$20.00
(b) If not more than 10 employees were regularly employed on July 1, 1933, the minimum weekly wage is.....	\$15.00	\$15.00	\$15.00	\$15.00	\$15.00	\$15.00	\$15.00
<i>All other employees, except salesmen working on commission, shall receive a weekly wage of at least—</i>							
(a) In any city of over 500,000 population or in the immediate trade area of such city.....	\$15.00	\$15.00	\$15.00	\$15.00	\$15.00	\$15.00	\$15.00
(b) In any city of between 250,000 and 500,000 population or in the immediate trade area of such city.....	\$14.50	\$14.50	\$14.50	\$14.50	\$14.50	\$14.50	\$14.50
(c) In any city of between 2,500 and 250,000 population or in the immediate trade area of such city.....	\$14.00	\$14.00	\$14.00	\$14.00	\$14.00	\$14.00	\$14.00
(d) In any town or place of less than 2,500 population.....	\$12.00	\$12.00	\$12.00	\$12.00	\$12.00	\$12.00	\$12.00
MAXIMUM HOURS							
Broadcast operators and control men.....	48 hours	48 hours	48 hours	48 hours	48 hours	48 hours	48 hours
<i>Employees in a managerial or executive capacity (including announcers, production men, and chief operators)</i>	There are no maximum hour provisions applicable to these classes.						
(a) If they receive more than \$35 per week							
(b) If they are employed in stations which on July 1, 1933, regularly employed not more than 10 persons, and receive more than \$25 per week.							
<i>Outside salesman.</i>							
<i>Employees on emergency maintenance and emergency repair work.....</i>	Must be paid at least one and one-half times the normal rate for hours worked in excess of 40, except in the case of broadcast operators and control men, who shall be paid at least one and one-half times the normal rate for hours worked in excess of 48.						
<i>All other employees (including announcers, production men and chief operators not in a managerial or executive capacity).....</i>	40 hours	40 hours	40 hours	40 hours	40 hours	40 hours	40 hours
<i>Persons employed on special event programs.....</i>	The maximum hours of work shall not exceed the number of hours above prescribed for their class of work averaged over any six-weeks' period.						

**NOTE:**

Article IV—Section 2 provides: "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—Section 5 provides: "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."

See also Sections 1, 2, 3, 4, 6 and 7 of Article V.



**EXECUTIVE ORDER  
CODE OF FAIR COMPETITION  
for the  
RADIO BROADCASTING 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 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.

The White House, November 27, 1933.

Approval recommended:

HUGH S. JOHNSON,  
*Administrator.*

**LETTER OF TRANSMITTAL**

The President,  
The White House.

November 27, 1933.

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%) per cent of the stations by numbers and over eighty-three (83%) per cent 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 Advisors 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 reemployment of some 765 men, or an increase of 350 men over the total employed within the Industry for any previous period.

**ARTICLE IV**

**Wages**

Non-technical 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 Advisor, the Industrial Advisor and the Labor Advisor 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 payrolls and the buying power of this group at the estimated rate of \$1,328,000 per year. The total payrolls 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.*



## REPORT OF DEPUTY ADMINISTRATOR

November 14, 1933.

To the National Recovery Administrator:

### General Statement

On August 29, 1933, there was submitted to the National Recovery Administrator a proposed Code for the Radio Broadcasting Industry.

Such proposed Code was signed and submitted by the National Association of Broadcasters, Inc., the membership of which is representative of all sections of the country and includes some 275 broadcasting stations. Statistics are not available to determine with accuracy the percentage of the total broadcasting business which is done by the members of the Association, but it is believed to be in excess of 83 per cent of the total volume of business done by the entire industry.

### The Public Hearing

A Public Hearing was held and completed on September 27, 1933, in the Ball Room of the Raleigh Hotel, Washington, D. C. A list of witnesses is contained in the transcript of record of such Public Hearing.

Upon the Public Hearing the following sat with your Deputy as Advisors:

G. E. Renard, Consumer Advisor; Edward Nockles, Labor Advisor; L. M. C. Smith, Legal Advisor; James Baldwin, Industrial Advisor; Donald K. Wallace, Research and Planning Division; and John Shepard, III, Special Advisor.

All elements of the Industry were heard and the statistical position of the Industry was satisfactorily presented. Communications received from interested parties who had not requested to be heard were read into the record.

### CONFERENCES AFTER THE HEARING

Following the Public Hearing, conferences were held with the representatives of all groups present, together with the Advisors. As a result of these conferences each and every matter was considered, involving employers, labor and the consumers, and with the unanimous approval of all parties was agreed upon.

### THE CODE AS REVISED

For the first time in the history of this Industry, minimum wages and maximum number of hours of employment are provided for, together with a guaranteed minimum weekly wage. The immediate effect of these will be to increase existing payrolls at the estimated rate of \$1,328,000 per year. Compliance with the Code, plus voluntary plans for increasing the network employment, will increase by approximately 765 the number of persons regularly employed in the Industry. This will exceed by about 350 persons the total for any previous period. The total payrolls under the Code will be more than double those of 1929, the peak year in most industries, and will equal 93.2 per cent of the payrolls of 1931, the peak year in the Radio Broadcasting Industry, notwithstanding the salary cuts in the higher brackets.

My best information is that there will not be an increase in rates charged for facilities so that the consumers should not be adversely affected. The Industry will be required to absorb the greater operating costs.

### BRIEF ANALYSIS OF THE PROVISIONS OF THE REVISED CODE

#### Hours

(a) Forty hours is established as the working week except as to employees in managerial or executive capacity, outside salesmen, employees on maintenance and emergency repair work, persons employed on special event programs of public interest, but in this case the hours averaged over a six weeks' period shall not exceed the maximum for their class, and broadcast technicians who are permitted to work 48 hours per week. Concerning the latter class of employees there was a total lack of reliable statistics covering the number of hours that such employees worked, and faced with this lack of statistics, your Deputy deemed it necessary to allow this 48-hour week pending the report of the Code Authority after a study to be made within ninety (90) days. The hours of such employees vary from a minimum of 36 hours per week to a maximum of over 80. Approval of a 48-hour work week for the next ninety (90) days has been given by the Advisors.

To preserve the gains made through any employers signing the President's Reemployment Agreement and reducing hours to 40 per week (before the approval of a substitution allowing 48 hours

per week for this class of employee), a clause has been inserted in the Code as follows:

"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."

Overtime is not permitted within the Industry except in the case of emergency maintenance and emergency repair men.

#### Wages

(b) Non-technical 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 classifications 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 small stations.

Announcers and program production employees are to receive \$20 per week, except that in small stations where not more than ten persons were regularly employed on July 1, 1933, the rate is \$15 per week. The employers agree not to reduce the compensation for employment now in excess of the minimum wages, notwithstanding that the hours may be reduced, and to increase the pay for such employment by an equitable readjustment.

No persons 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.

In the proposed Code there is constituted a named Code Authority comprising representatives of independent stations, the Special Advisor, the Industrial Advisor, and the Labor Advisor on the Code, two representatives of the broadcasting networks, and three members to be appointed by the Administrator. The members of the Code Authority were named because of their experience and training in the Industry so that there might be no delay in instituting the investigations which are required of that body and in recommending to the Administrator a permanent form of organization for the administration of this Code.

To insure further that the Code Authority shall be truly representative of the entire Industry and all its component parts there is a provision that 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.

Open price schedules are provided for among the trade practices by requiring each broadcaster and network to publish and file with the Code Authority a schedule of all of 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.

\* \* \* \* \*

The revised Code is adopted by the authorized representatives of the Association and by authorized representatives of employees, as appears from their adoption in writing appended hereto.

There are also appended hereto the reports on the Revised Code of the Industrial Advisory Board, Labor Advisory Board, Consumers' Advisory Board, Research and Planning Division, and Legal Division. Your Deputy finds that:

(a) The Code as revised complies in all respects with the pertinent provisions of Title I of the Act, including, without limitations, subsection (a) of Section 7 and subsection (b) of Section 10 thereof; and that

(b) The National Association of Broadcasters, Inc., imposes no inequitable restrictions on admissions to membership therein and is truly representative of the Radio Broadcasting Industry; and that

(c) The Code is not designed to eliminate or oppress small enter-



prises and will not operate to discriminate against them and will tend to effectuate the policy of Title I of the National Industrial Recovery Act.

Accordingly, I hereby recommend the approval of the Code of Fair Competition for the Radio Broadcasting Industry.

Respectfully submitted,

SOL A. ROSENBLATT,  
*Deputy Administrator.*

## INDUSTRIAL ADVISOR'S REPORT

INDUSTRY: Radio Broadcasting

ADVISOR: James W. Baldwin

DEPUTY ADMINISTRATOR: Sol A. Rosenblatt

HEARING HELD: September 27, 1933

COMMENTS ON HEARING:

The Industry was represented at the hearing by the National Association of Broadcasters, the only Trade Organization in the Industry. Its membership today numbers 275 stations and embraces all classes of broadcasting stations licensed by the Government. These member stations do approximately 83 per cent of all the broadcasting business. Further, its membership is representative of all sections of the country.

The statistical position of the Industry is reflected in a paper submitted to the National Recovery Administration by the National Association of Broadcasters and titled "The Economics of American Broadcasting." This paper is based upon data contained in—

Commercial Radio Advertising—Senate Document 137.

A Decade of Radio Advertising—Herman S. Hettinger.

Annual Reports of the Federal Radio Commission.

The Work of the Federal Radio Commission—Brookings Institute.

Current information from network companies and individual stations.

The data supplied in respect of wages, hours and employment are based upon information supplied by the two national network companies and by a sample of 154 individual stations from whom information was collected as of the week ended July 29, 1933. These stations comprise 25.5 per cent of the entire number of stations in the country. Of the total questionnaires, 54.5 per cent came from members of the National Association of Broadcasters and 45.5 per cent from non-member stations. The data thus supplied are not satisfactory in that they fail to show accurately the number of hours worked in the industry.

### COMMENTS ON CODE:

The labor provisions contained in the Code are in themselves satisfactory. (See "Other Comments.") The immediate effect of these will be to increase existing payrolls at the estimated rate of \$1,328,000 per year.

**RADIO OPERATORS AND CONTROL MEN.** One point which caused considerable controversy concerned the hours of labor for radio operators and control men (Article III, Paragraph 2, sub-paragraph d). The question was whether these men should work 40 hours per week or 48 hours per week. These men attend the transmitter and control panels. Persons desiring to operate transmitters must prove their qualifications for such work by written examinations conducted by the Federal Radio Commission and are licensed by the Government as are navigators of vessels. The general practice in the Industry is to hire only licensed operators for attending both the transmitter and the control panels.

The broadcast day has been defined by the Federal Radio Commission to mean that period of time between 6 a. m. and 12 midnight (Rule 87). In a great many cases the practice, prior to the President's Reemployment Agreement, has been to allow operators to work as many as seventy hours and more per week.

The following factors are considered as justifying the provision in this Code for 48 hours per week, pending investigation by the Code Authority and report thereon to the Administration (Article VI, Paragraph 4), of the hours of labor, wages, and working conditions of broadcast technicians and the relation thereof to general conditions within the Industry:

1. The President's Reemployment Agreement already has resulted in a substantial reduction in the number of hours worked.
2. Reliable information that the work is neither hazardous nor fatiguing and that working conditions are excellent.
3. The existence of contracts between Union operators and station owners calling for a 48-hour week.

4. The absence of any general unemployment among persons licensed to operate broadcast stations. Official advices from the Federal Radio Commission, dated September 18, 1933, show there are 7,103 men licensed to operate broadcasting stations; that 4,730 of these hold licenses valid for the operation of commercial ship, land and experimental stations of which there are 4,559. Statistics furnished by the National Association of Broadcasters show 2,100 men are employed within the Broadcasting Industry as operators and control men. This would leave 5,003 men for employment by 3,960 licensed stations. Many of these stations, of course, must employ more than one operator. For example, a first-class ship license, of which there are about 250, carries an obligation to carry two operators. Allowing 2,100 as employed by the Broadcasting Industry, 500 by ships carrying first-class licenses and only one operator for the remaining 3,710 stations, the difference would be only 793. Further, the demands of the Department of Commerce on this class of operators amounts to about 450 which leaves but 343 men for which to account.

**MUSICIANS.** The Code does not fix hours and wages for musicians. This is because the representative of the American Federation of Musicians regarded the conditions in different parts of the country to be at such a variance as to make it virtually impossible to treat the subject without injury to existing agreements. At his request, and agreeably to the Industry, the Code has been made to provide (Article V, Paragraph 7):

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

**RADIO ARTISTS AND PERFORMERS.** At the public hearing and in subsequent conferences strong representations were made on behalf of radio artists and performers. Chief among these were those made by the representative of the Actors Equity Association. This representative urged the adoption of provisions which, among other things, would, (a) establish minimum fees for each performance, (b) provide different fees for different classes of stations, (c) prevent a performer from doubling, (d) fix fees for "extras," (e) prevent the participation by a studio employee in, for example, a "mob hurrah," (f) prevent free auditions, (g) regulate rehearsals, (h) prevent voluntary service, etc.

The best information available indicates that the employment of professional artists and performers, within the broadcasting Industry, is confined to a few large stations, and companies engaged in network broadcasting. Further, it is not established that the Actors Equity Association represents any fair proportion of those artists and performers employed in this Industry. Again, the Association failed to support a single claim of abuse. All of their complaints were very general in character, and unsupported by facts.

There is not available any qualitative data upon which a final decision in these matters can be made. Moreover, it will require considerable time to collect such data. For these reasons the Code has been made to provide (Article VI, Paragraph 3) that the Code Authority shall investigate the hours of labor and the wages of radio artists and performers and make a report thereon to the Administrator.

**PHONOGRAPH RECORDS.** A representative of the American-Brunswick Record Corporation proposed that the Code contain the following provision:

"It shall be an unfair practice and a violation of this Code for any broadcaster or network to broadcast records without the prior written consent of the manufacturer of such records."

A like request was made by the RCA-Victor Company. A full discussion of this question, like others involved herein, would require more space than appears to be justified. I consider it sufficient to point out here, (1) that this matter involves important questions of law; (2) that if injury is done any interested party, he has a remedy in a court of law, and (3) by admission of the American-Brunswick representative, they seek to have the National Recovery Administration furnish a kind of relief "which would be highly difficult to accomplish in the courts of law, if it could be done" (R. 158, 159).

**ADVERTISING OF DRUGS AND MEDICINES.** The Executive Secretary of the American Home Economics Association proposed that, "No broadcaster or network shall knowingly permit the broadcasting of any false representations regarding goods or services or any representations which may by ambiguity or inference mislead the hearer regarding the value of such goods or services."



This subject, as it relates to all advertising media, has received extensive study by the Department of Agriculture. Moreover, as a result of this study, a bill has been introduced for consideration by the Congress. The Industry insists, and I think their claims cannot be disputed, that this matter is one which cannot be adequately treated in any code so as to apply the same principles to all the different advertising media and that regulation, if found desirable, must be statutory in character.

Compliance with the Code, plus voluntary plans for increased network employment will increase by approximately 765 the number of persons regularly employed in the Industry. This would exceed by about 350 persons, or more than 3 per cent, the total for any previous period. It is estimated that total payrolls under the Code will be more than double those of 1929, the peak year in most industries and will equal 93.2 per cent of the payrolls in 1931, a peak year for the Radio Broadcasting Industry, notwithstanding the salary cuts in the higher brackets.

The effects of the operation of the Code will be beneficial to labor. My best information is that there will not be an increase in rates charged for facilities, so that the consumer should not be adversely affected. The Industry will be required to absorb greater operating costs. Compliance with the trade practices provisions should be beneficial to both the radio audiences and the Industry.

The importance of Article VIII, Paragraph 2, of this Code arises out of the fact that this Industry exists by virtue of licenses issued by the Federal Government pursuant to provisions contained in the Radio Act of 1927 (Title 47, Part 5, U. S. C.). The obligations and responsibilities imposed upon the Industry by that Act, and by the rules and regulations of the Federal Radio Commission made pursuant thereto, make it absolutely necessary to avoid any conflict therewith.

#### OTHER COMMENTS:

This is a Federally licensed Industry, subject to rigid obligations to serve the public interest. It should be pointed out that each of the 588 broadcasting stations must seek a renewal of its license to operate every six months; that in practice a great many owners of stations, at renewal periods, are faced with the necessity of prosecuting their applications against some one who seeks to take their radio facilities away from them. Often-times such applications are frivolous in character. Nevertheless, the licensee, in such cases, is compelled to engage technical and legal aid in order that he may prove his case at a formal hearing which is conducted by the Federal Radio Commission. Frequently, this is so where the Federal Radio Commission, over a period of several years, has found that the station was operated in the public interest.

The cost of these proceedings is very great. It requires station owners, through no fault of theirs, to spend substantial sums for the services of expert radio engineers and lawyers, which otherwise could be used to engage a greater number of employees with benefit to programs rendered.

The Radio Act of 1927 provides for license periods not exceeding three years (Sec. 9). While the Industry was being formed, there could be no question as to the wisdom of limiting license periods to short terms. Today, however, the state of the art, and the power of the Government to revoke licenses for violation of or failure to observe any of the restrictions and conditions of the Radio Act of 1927 or of any regulation of the licensing authority authorized by that Act or by a Treaty ratified by the United States, etc. (Sec. 14), make short term licenses unnecessary. In view of the commitment now being required of every broadcaster under the terms of the National Recovery Act, it is a manifest injustice that this Industry should be compelled to measure the existence of every one of its component parts in terms of not more than six months. As a definite part of the national program of recovery and increased stability and confidence, the Broadcasters are clearly entitled to the full term of license provided by Congress in the Radio Act of 1927. I cannot recommend that the Radio Broadcasting Industry be required to make additional fixed and permanent commitments unless it first can be given the full measure of protection provided by law.

The responsibility for a decision on this point rests with the Federal Radio Commission. However, we are faced with the situation where one branch of the Government (The Federal Radio Commission) is licensing and regulating an industry and another branch of the Government (The National Recovery Administration) is making decisions of the greatest importance to that Industry's economic existence. It seems only proper, therefore, to suggest that there should be the closest kind of cooperation between these two agencies. I urge the Recovery Administration to give serious consideration to this phase of the question and to make a

proper recommendation thereon to the Federal Radio Commission.

Except for this point, which is not within the jurisdiction of the National Recovery Administration, I consider the Code, a copy of which is hereto attached, to be fair to both industry and labor and recommend its approval.

JAMES W. BALDWIN,  
*Industrial Advisor.*

#### SUPPLEMENTAL COMMENT ON CODE

I have examined the draft of the Code of Fair Competition for the Radio Broadcasting Industry, dated November 18, 1933, and stand upon the conclusions and recommendations contained in my report of November 6, 1933.

(Signed) JAMES W. BALDWIN,  
*Industrial Advisor.*

Nov. 21, 1933.

#### INDUSTRIAL BOARD'S APPROVAL

November 21, 1933.

To: Deputy Administrator S. A. Rosenblatt.

From: E. R. Stettinius, Jr.

Mr. James W. Baldwin, Industrial Advisor, has approved the final copy (dated November 18, 1933) of the Code for the Radio Broadcasting Industry, and the Industrial Advisory Board hereby confirms this approval.

E. R. STETTINIUS, JR.,  
*Washington Representative,  
Industrial Advisory Board.*

TRT:OE

#### CONSUMERS' ADVISOR'S REPORT

November 18, 1933.

Memorandum To: Sol Rosenblatt, Deputy Administrator.

From: Consumers' Advisory Board.

Subject: Approval of Code for the Radio Broadcasting Industry.

The Consumers' Advisory Board advises approval of the above Code, revised as of November 16, 1933.

In view of the widespread public interest in the Radio Broadcasting Industry this Board respectfully recommends the appointment of a consumer representative on the Code Authority, and is prepared to suggest a qualified individual for such appointment if requested by the Administrator.

GEORGE B. HADDOCK,  
*Consumers' Advisory Board.*

MI.

#### LABOR BOARD'S APPROVAL

November 18, 1933.

To: Deputy Administrator Rosenblatt.

From: Labor Advisory Board.

Subject: Code of Fair Competition for the Radio Broadcasting Industry. Fourth Revision—November 17, 1933.

We approve of the labor provisions of this Code as revised November 17, 1933.

LEO WOLMAN, *Chairman,  
Labor Advisory Board.*

#### REPORT OF LEGAL DIVISION

N. R. A. Legal Division.

Monday, November 20, 1933.

To: Sol A. Rosenblatt.

From: Legal Division.

Subject: Code of Fair Competition for the Radio Broadcasting Industry.

The final draft, dated November 18, 1933, of the Code of Fair Competition for the Radio Broadcasting Industry has been examined and passed by the Legal Division, subject to the following recommendations:

1. That section 6 of Article VI, third line be amended to conform to Office Order No. 34.

2. Section 5 of Article VI is capable of the interpretation of permitting the Code Authority to handle labor disputes. This should be borne in mind in the instructions to the Code Authority.

3. Article VII, section 1 (a). This permits five more days than is permitted by policy memorandum in respect to open pricing.

4. Article VI, sections 2 and 3. This does not define the elements of cost in accordance with the policy memorandum.

L. M. C. SMITH,  
*Legal Division,  
Assistant Counsel.*

LMCS:1cb.



## RESEARCH AND PLANNING REPORT

November 11, 1933.

From: Donald K. Wallace, Research and Planning Division.  
To: Sol A. Rosenblatt, Deputy Administrator.  
Subject: Radio Broadcasting Industry.

Owing to the fact that the radio broadcasting industry is comparatively young, and to the fact that it has expanded rapidly in the past five or six years, an attempt to compare the current activities and economic conditions of the industry with those of any preceding year would tend to give misleading results.

For example, in the average industry, the employment peak occurred in 1929, and it is the desire of the Administration to re-absorb wage earners to the extent of putting employment back to the 1929 level. In the case of the Radio Broadcasting Industry, however, more stations are in operation now, and more individuals employed, than there were in 1929. Therefore, that year cannot be used as a barometer.

In so far as the Code is designed to improve conditions in the Radio Broadcasting Industry, our division is satisfied with it as it stands modified, amended, or changed by the Deputy Administrator. Respectfully submitted,

DONALD K. WALLACE,  
*Division of Research and Planning*

### SPECIAL ADVISOR'S REPORT

#### WESTERN UNION

1933 Nov 2 PM 3 27.

WU97 DL-WUX Boston, Mass., 2 309P.  
Sol Rosenblatt, Deputy Administrator NRA,  
Department of Commerce Bldg.

Have been carefully over third revision of Broadcasting Code and believe it to be fair to both industry and labor stop It therefore has my approval as Special Advisor.

JOHN SHEPARD THIRD. 2931

### McCOSKER SIGNS FOR N. A. B.

#### ADOPTION OF THE REVISED CODE OF FAIR COMPETITION FOR THE

#### RADIO BROADCASTING INDUSTRY

The undersigned does hereby adopt the Code for the Radio Broadcasting Industry as finally revised.

NATIONAL ASSOCIATION OF BROADCASTERS, INC.,  
By its President duly authorized to adopt such code:

ALFRED J. McCOSKER,  
*President.*

November 15, 1933.

### WEBER SIGNS FOR A. F. OF M.

November 18, 1933.

The undersigned hereby approves and adopts the foregoing Code of Fair Competition for the Radio Broadcasting Industry.

JOSEPH W. WEBER, *President*,  
*American Federation of Musicians.*

### ELLIOTT SIGNS FOR IATSE

November 18, 1933.

The undersigned hereby approves and adopts the foregoing Code of Fair Competition for the Radio Broadcasting Industry.

WILLIAM C. ELLIOTT, *President*,  
*International Alliance of Theatrical Stage  
Employees and Moving Picture Machine  
Operators of the United States and Canada.*

### TRACY SIGNS FOR IBEW

November 18, 1933.

The undersigned hereby approves and adopts the foregoing Code of Fair Competition for the Radio Broadcasting Industry.

DAN W. TRACY, *President*,  
*International Brotherhood of Electrical Workers.*

## 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 per cent 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 prac-

tices now in force, where such minimum rates of pay are higher and the maximum 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, M. 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 by-laws 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 the 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.