

Codes of fair competition: The National Industrial Recovery Act, 1933-1935 and the women's ready-to-wear apparel industry

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Controversial issues prevalent in today's ready-to-wear apparel industry include design piracy, the right of workers to join unions, and the proliferation of sweatshops and sweatshop conditions.ⁱ To establish ethical practices in the apparel industry, codes of conduct have been created by the U.S. Department of Labour, the Fair Labour Association, and the Worldwide Responsible Apparel Production.ⁱⁱ While these codes have improved the awareness of social responsibility, or the "practices for conducting business in which [firms] make decisions based on how their actions affect others within the marketplace,"ⁱⁱⁱ unethical business activities continue into the 21st century.

The idea of forming codes of conduct to establish criteria of ethical practices is not new to the apparel industry. Indeed, the women's dress manufacturing industry discussed and debated codes of fair practice under the New Deal Policies of the National Industrial Recovery Act (NIRA) of 1933 to 1935. Understanding the history of the early debates regarding controversial topics such as design piracy, collective bargaining, and sweatshop conditions reveals the complexities of the ready-to-wear apparel industry and the often conflicting aims of industry, labor, and consumers. This paper examines the ethical, economic, and social considerations regarding what constituted "fair competition" during the NIRA and analyzes the role of industry members, workers, and consumers in these arguments. The history of the women's apparel industry as debated during the NIRA sheds light on the difficulties of instituting code of ethics within the women's ready-to-wear apparel industry.

To study this topic, the researcher accessed the governmental hearings on the codes of fair practices and competition discussed by apparel industry executives, representatives from labor, and consumers during the NIRA. *The New York Times*, *Women's Wear Daily* and the *Journal of the Patent Office Society* (which discussed the establishment of the codes) were searched for reference to the NIRA codes and the women's ready-to-wear apparel industry. A systematic analysis of the *Readers' Guide to Periodical Literature* facilitated the search for other primary sources found in *Business Week* and *Time* magazines.^{iv}

The NIRA

The NIRA was passed by Congress and approved by President Franklin Roosevelt in June 1933. The stated purposes of the NIRA were plural and related to the immediate national emergency of the Great Depression: reemployment and the promotion of industrial recovery.^v The Act called on industries to negotiate and submit for government approval so-called "codes of fair competition." It was believed that the formation of these codes would "stop the wastes of excessive competition" and encourage the "united action of labor and management in the interest of industrial peace."^{vi} Forty-three industrial groups including, but not limited to, automobile manufacturing, the lumber industry, the motion picture industry, the silk textile industry, and the dress manufacturing industry participated in forming codes of conduct under the auspices of the NIRA. By May 1935, when the NIRA was struck down as unconstitutional by the Supreme Court, almost 800 codes were implemented.^{vii}

The formation of the codes were conducted in public hearings and publicized through the press, trade and industrial journals, and the posting of bulletins in post offices throughout the country.^{viii} Industry

members were instructed to work together to form consensus regarding controversial practices in the best interests of industry, labor, and consumers. Once approved, the codes would be administered by the individual industries with minimal governmental control. The NIRA assumed that the initiative in preparing the codes would be undertaken by existing and newly formed trade associations of each industry. It was mandated that each industry would create codes that would not promote monopolies or eliminate or “oppress” small enterprises.^{ix}

The women’s ready-to-wear industry discussed and debated fair practice codes including the right of employees to collectively bargain, the length of the work week and wage scales for employees, the practice of design piracy or copying of another manufacturer or designers’ merchandise, and the structure of the industry in regards to the responsibilities of manufacturers, jobbers, and contractors.^x Some within the apparel industry stressed the importance of the codes saying that the partnership with government “would act as ladders on which crippled business could climb out” to “beat this depression.”^{xi}

Despite some enthusiasm for the codes, members of the women’s ready-to-wear apparel industry were never able to reach consensus. However, the hearings on the codes of fair practice from 1933 to 1935 contain thousands of pages of diverse viewpoints. These perspectives shed light on the continuation of controversial practices in the 21st century. An understanding of the ethical, economic, and social considerations regarding the historical practices of piracy, wage work, and the conflicting interests of labor, consumers, and business, may inform our current understanding of controversial policies and successes and failures at more recent attempts to form codes of conduct.

ⁱ While design piracy began early in the U.S. ready-to-wear apparel industry, designers and manufacturers continue to debate the controversial tradition. The Design Prohibition Act of 2007 was entered for review in the U.S. Senate and would offer three years of copyright-like protection for “original” designs ranging from dresses to eyeglasses. Other issues such as the right of employees to join unions and sweatshops continue to receive considerable attention in the trade and popular press. *The Washington Post*, “Unions seek Wal-Mart probe over election law,” April 14, 2008; Cheryl Lu-Lien Tan, “Copy Protection for Fall Fashion,” *Wall Street Journal* (October 27-28, 2007): W1; Liza Casabona, “Report: Lapses by Governments May Support Sweatshops,” *Women’s Wear Daily* (July 1, 2008).

ⁱⁱ Grace I. Kunz and Myrna B. Garner, *Going Global: The Textile and Apparel Industry* (NY: Fairchild, 2007).

ⁱⁱⁱ Mary A. Littrell and Marsha A. Dickson, *Social Responsibility in the Global Market: Fair Trade of Cultural Products* (Thousand Oaks, CA: Sage Publications, Ltd., 1999).

^{iv} Financial support of this project was received from The Pasold Research Fund, London School of Economics and the Courtauld Institute of Art.

^v John M. Clark, William H. Davis, George M. Harrison, and George H. Mead, *The National Recovery Administration* (Washington, D. C.: U. S. Government Printing Office, 1937).

^{vi} Dudley Cates, “A Current Appraisal of the National Recovery Administration,” *Annals of the American Academy of Political and Social Science* (1934): 130-138.

^{vii} Karl Fenning, “N. R. A. Codes,” *Journal of the Patent Office Society* (1934): 189-203; Kenneth Dameron, “Retailing under the N.R.A. I,” *The Journal of Business of the University of Chicago* 8 (1935): 1-26.

^{viii} Clark, Davis, Harrison, and Mead, *The National Recovery Administration*.

^{ix} Robert H. Connery, *The Administration of an NRA Code* (Chicago: Public Administration, 1938).

^x The period of the NIRA represented a time in the ready-to-wear apparel industry that saw great growth in the number of small and medium sized firms. Due to the needs of women during the Great Depression to purchase lower cost goods, the apparel industry witnessed increase in the number of smaller firms working on tighter



economic margins and an increase in the number of outside contractors. These factors exacerbated the problems of design piracy, called by the trade press *Women's Wear Daily* "the worst evil in the industry." Florence S. Richards, *The Ready-to-Wear Industry 1900-1950* (New York: Fairchild, 1951).

^{xi} "Johnson Aide Asks Speeding of Codes," *The New York Times*, June 29, 1933, 8; "Says NRA Realized Ideals," *The New York Times*, September 22, 1934, 16.