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FEDERAL TRADE COMMISSION

16 CFR PART 23

Guides for the Jewelry, Precious Metals, and Pewter Industries: Public Roundtable

AGENCY: Federal Trade Commission (“FTC” or “Commission”).

ACTION: Announcement of public roundtable.

SUMMARY: The Federal Trade Commission (“FTC” or “Commission”) will hold a public roundtable on June 19, 2013 to examine possible modifications to the FTC’s Guides for the Jewelry, Precious Metals, and Pewter Industries (“Jewelry Guides” or “Guides”). This Notice describes the issues the roundtable will examine and invites comments regarding the questions to be addressed.

DATES: The roundtable will be held on Wednesday, June 19, 2013, from 9:00 a.m. to 1:00 p.m. at the FTC’s Satellite Building Conference Center, located at 601 New Jersey Avenue NW., Washington, DC 20001. Prior to the roundtable, the Commission will publish an agenda and further information on its Web site. Comments will be accepted until June 5, 2013.

The roundtable is open to the public, and there is no fee for attendance. For admittance to the Conference Center, all attendees will be required to show a valid photo identification, such as a driver’s license. The FTC will accept pre-registration for this roundtable. Pre-registration is not necessary to attend, but is encouraged so that we may better

² The Commission issues industry guides to help the industry conduct its affairs in conformity with legal requirements. 16 CFR Part 17. Industry guides are administrative interpretations of the law; they do not have the force of law and are not independently enforceable. Failure to follow industry guides may result, however, in enforcement action under the FTC Act, 15 U.S.C. 45. In any such action, the Commission must prove that the act or practice at issue is unfair or deceptive in violation of Section 5 of the FTC Act.

³ To ensure that its regulations and guides continue to achieve their intended goals without unduly burdening commerce, the Commission systematically reviews its regulations and guides on a ten-year cycle; *see*, the Commission schedules its reviews ten years after implementation and ten years after the completion of each review. Since completing its last review of the Jewelry Guides in 1996, the Commission revised sections of the Guides and addressed other issues raised in petitions from jewelry trade associations.

See, *61 FR 27178* (May 30, 1996); *62 FR 16669* (Apr. 8, 1997); *64 FR 33193* (June 22, 1999); *65 FR 78738* (Dec. 15, 2000); *75 FR 81443* (Dec. 28, 2010). The Commission therefore scheduled the Guides for another comprehensive review in 2011, but postponed it due to resource constraints.

See, *76 FR 41150* (Jul. 13, 2011).

⁴ Available at <http://www.ftc.gov>. Citations to comments below identify the commenter by name and assigned comment number.

¹ 77 FR 39201 (July 2, 2012).

⁷ MJJ, Comment 560895-00009 at 4; JTV, Comment 560895-00017 at 4; JVC, Comment 560895-00027 at 4. In contrast, JEA stated that the current Guides provisions concerning precious metals are clear and concise, and do not require revision. JEA, Comment 560895-00013 at 10.

⁸ JTV, Comment 560895-00017 at 4.

⁹ Indeed, Schenk expressly opposed any revision that would allow the stamping of alloys containing less than 10 karats of gold with a quality mark implying gold content, and also opposed any revision that would allow the stamping of alloys containing below-standard amounts of silver (other than the stamping of "coin silver" on alloys comprising at least 90% silver, as provided in Section 23.6(c) of the Guides). Schenk, Comment 560895-00008 at 3. Similarly, JVC stated that it did not recommend any changes to the minimum standard amounts, and JEA stated that revisions to the Guides' provisions concerning precious metals are not needed. JVC, Comment 560895-00027 at 4; JEA, Comment 560895-00013 at 10.

¹³ JVC, Comment 560895-00027 at 20, 39-40.

¹⁴ Sudhir wuk), ComP4 0 0 4.55 4 mp 560895- JVC),

⁵ MJJ Brilliant Jewelers (MJJ), Comment 560895-00009; Jewelers Ethics Association (JEA), Comment 560895-00013; Jewelers Vigilance Committee (JVC), Comment 560895-00027; Jewelry Television (JTV), Comment 560895-00017; and Wayne Schenk (Schenk), Comment 560895-00008.

⁶ MJJ, Comment 560895-00009 at 3.

¹⁰ MJJ, Comment 560895-00009 at 4.

¹¹ JVC, Comment 560895-00027 at 4.

¹² JVC, Comment 560895-00027 at 20, 39-40.

¹⁷JVC, Comment 560895-00027 at 12-13.

¹⁸Specifically, JVC and Sterling/Richline recommended an approach that expressly covers surface applications of platinum, iridium, palladium, ruthenium, rhodium, and osmium, in addition to gold and silver. JVC, Comment 560895-00027 at 13-14; Sterling/Richline, Comments 560895-00021 & 560895-00022 at 2. TSI focused on gold and silver, and did not discuss surface applications of other precious metals. TSI, Comment 560895-00016 at 2-3. Similarly, Jadhav focused solely on the issue of gold plating over silver, without referring to other precious metals. Jadhav, Comment 560895-00011 at 1-2.

¹⁹Sterling/Richline recommended that all standards for electrolytic plating applications of gold (as reflected in proposed guidance regarding use of the terms "plate," "plated," "electroplate," "electroplated," "heavy electroplate," "heavy electroplated," and "vermeil") be stated in terms of "fine gold;" similarly, Jadhav recommended that gold plating over sterling silver only be permitted for gold greater than 23 karats. Sterling/Richline, Comments 560895-00021 & 560895-00022 at 1-2; Jadhav, Comment 560895-00011 at 1. By contrast, the JVC proposal provides for electrolytic surface applications of gold alloy. JVC, Comment 560895-00027 attach. at 9.

²⁰JVC's proposed guidance provided a minimum thickness of three millionths of an inch. JVC, Comment 560895-00027 attach. at 10. By contrast, Sterling/Richline proposed minimum thickness standards of three millionths of an inch for an application of rhodium over non-white metal, and two millionths of an inch for an application over white metal. Sterling/Richline, Comments 560895-00021 & 560895-00022 at 3.

²¹TSI included "overlay" in its recommendations regarding gold and silver surface applications. TSI, Comment 560895-00016 at 2. JVC stated it did not address "overlay" in its proposed revisions to the Guides because the term is superfluous. JVC, Comment 560895-00027 at 15.

²²~~TSI~~ Sterling/Richline, Comments 560895-

(d) Provide any evidence supporting your position.

8. The current Guides do not address the term "bonded." JVC stated this term "indicates a durable product with a mechanically applied application of gold or gold alloy over a base of sterling silver that is at least 1/40th of the weight of the article," and proposed that use of the term also be permitted for surface applications of precious metals other than gold.

(a) Is the term "bonded" used to describe surface applications of other precious metals, such as silver or platinum group metals?

(b) What amount of plating on a product described as "bonded" is necessary to assure reasonable durability of coverage?

(c) Does the amount of plating needed to assure durability differ depending on the metals used? If so, how does it differ?

(d) How do consumers comprehend the term "bonded"?

(e) Provide any evidence supporting your position.

9. The current Guides do not address the term "clad." JVC recommended marketers state a product is "[precious metal] clad" when the applied precious metal is at least 1/20th of the weight of the article.

(a) What amount of plating on a product described as "clad" is necessary to assure reasonable durability of coverage?

(b) Does the amount of plating needed to assure durability differ depending on the metals used? If so, how does it differ?

(c) How do consumers comprehend the term "clad"?

(d) Provide any evidence supporting your position.

10. Should the Guides continue to provide guidance on use of the terms "flashed," "washed," "overlay," "Duragold," "Diragold," "Noblegold," "Goldine," or "layered gold"?

(a) If so, why? If not, why not?

(b) How do consumers comprehend these terms?

(c) Provide any evidence supporting your position.

11. Sterling/Richline suggested that standards for certain terms used to describe gold electrolytic plating applications ("plate," "plated," "electroplate," "electroplated," "heavy electroplate," "heavy electroplated," and "vermeil") should be stated in terms of "fine gold," which has a 23.5 karat minimum. Do the current Guides provisions regarding these terms, which refer to platings or coatings of "gold" or "gold alloy of not less than 10 karat fineness" create consumer confusion or cause consumer injury?

(a) If so, how? What is the injury to consumers?

(b) Provide any evidence supporting your position.

12. Should the Guides advise marketers to disclose that the durability of a surface application of precious metal is not assured if suggested thickness or weight minimums are not met?

(a) If so, why? If not, why not?

(b) Would the issuance of guidance calling for such disclosure affect the costs and benefits of the Guides for consumers and businesses, particularly small businesses? If so, how?

(c) Provide any evidence supporting your position.

13. To the extent not addressed in your previous answers, please explain whether and how the Commission should revise the Guides to prevent consumer deception with respect to the marketing and sale of jewelry industry products that have a surface-layer application of precious metal.

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before June 5, 2013. Write "Jewelry Guides Roundtable, 16 CFR Part 23, Project No. G711001" on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at <http://www.ftc.gov/condo/comments>.

As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site. Because your comment will be made public, you are solely responsible for making sure your comment does not include any sensitive personal information, such as anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure your comment does not include any sensitive health information, such as medical records or other individually-identifiable health information. In addition, do not include any "trade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential," as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information

such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you must follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).²³ Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. Accordingly, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at <http://www.ftc.gov/condo/comments> by following the instructions on the web-based form. If this Notice appears at <http://www.ftc.gov/condo/comments>, you also may file a comment through that Web site.

If you file your comment on paper, write "Jewelry Guides Roundtable, 16 CFR Part 23, Project No. G711001" on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex O), 600 Pennsylvania Avenue NW., Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at <http://www.ftc.gov/condo/comments> to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before June 5, 2013. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy pndd0

²³ In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c), 16 CFR 4.9(c).