

**In the Matter of:**  
**Jewelry Guides Regulatory**

*June 19, 2013*  
*First Version*

**Condensed Transcript with Word Index**



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FEDERAL TRADE COMMISSION

JEWELRY GUIDES ROUNDTABLE

JUNE 19, 2013

Federal Trade Commission
601 New Jersey Avenue, N.W., Conference Center
Washington, DC

Reported By: Stephanie Gilley

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WELCOME
MS. REENAH KIM: Good morning everyone and
welcome. I think we might as well go ahead and get
started. Thank you all for coming to today's public
roundtable on the FTC's Jewelry Guides.
My name is Reenah Kim and this is Laura
Koss and Laura Kim with me. We are all attorneys
here at the FTC and we will be moderating this
morning's panels. We are looking forward to a
productive discussion with today's group.
First, I'm just going to go over a few
housekeeping items, starting with security. Anyone
who leaves the building without an FTC badge will be
required to go back through security screening
before reentering the conference center.
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leave the building in an orderly fashion. Once you're
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the building, you'll be directed where to go.
If you spot any suspicious activity,
please alert security.
And lastly, this event may be
photographed, videotaped, or otherwise recorded. By
participating in this event, you're agreeing that
your image and anything you say or submit may be
posted indefinitely at the FTC.gov website or on one
of the commission's publicly-available social media
sites.
Now some of you may have attended an FTC
roundtable in the past, so are probably familiar
with how this will go. As I mentioned, this
proceeding is being transcribed, so all of our
statements will be on the record and the transcript
will be made available on the FTC's website.
That said, this will be a relatively
informal discussion. We have panelists here at the
front and we also have a number of folks, I know,
who are interested in weighing in, sitting in our
audience right now.
So we will -- the way this will proceed is that
we will sort of throw out questions and we'll have
panelists speak up. If you're a panelist and you wish to
speak, it's a small enough space, you can kind of just put

1 your hand up and we will invite you to join in. The  
2 purpose of that being simply so we can have a clear  
3 transcript and minimize any interruptions.

4 We will also be reserving time at the end  
5 of each panel for Q&A from folks in the audience.  
6 And so at that time, if you're someone in the  
7 audience who would like to speak, you know, the same  
8 thing. You can just put your hand up and we will  
9 call on you to make sure you get a chance to be  
10 heard.

11 Please keep in mind this roundtable is not  
12 intended to be a protracted debate or oral argument.  
13 Nothing is going to be decided today. And while  
14 Laura and I will try to answer questions if they  
15 arise, the purpose of the meeting is really not for  
16 FTC staff to provide detailed responses. Nothing is  
17 going to be decided today. What we say does not  
18 necessarily reflect the views of the Commission or  
19 any individual commissioner.

20 Our main objective is to guide the  
21 discussion to identify issues and further develop  
22 the record, as the FTC reviews and considers  
23 possible revisions to the Jewelry Guides. As you  
24 know, last summer the FTC sought comment on the  
25 overall costs, benefits, necessity, and impact of

1 the Jewelry Guides, as well as any possible  
2 modifications, as part of the Agency's systematic  
3 review of its current rules and Guides.

4 To address some of the comments that we  
5 received, we are conducting today's roundtable to  
6 explore two particular issues. Our first panel will  
7 discuss the marketing of alloy products containing  
8 precious metals in amounts below the Guide's minimum  
9 thresholds.

10 We'll take a short break and then for our  
11 second panel, we will turn to the issue of jewelry

1 descriptive marketing materials? Cecilia, do you  
2 want to start off?

3 MS. GARDNER: Yes, thank you. First of  
4 all, good morning everyone. Secondly, I'd like to  
5 thank the FTC for the opportunity to appear here  
6 today.

7 I want to remind everybody, as we have  
8 said in our submissions, that the Federal Trade  
9 Commission guidelines for the jewelry industry is a  
10 very important document to the jewelry industry for  
11 two reasons. It provides our marketers with very  
12 clear guidance on what would be deceptive trade  
13 practices, and we are interested in ensuring that we  
14 do not engage in consumer deception in any way.

15 And secondly, the Guides are very  
16 important as an indicator to manufacturers and  
17 marketers as to what specifications they should meet  
18 in connection with manufacturing and marketing our  
19 products.

20 So we continue to emphasize that the  
21 Guides themselves are an important document to our  
22 industry and we are very glad that -- and we hope  
23 that you're keeping them. We think they need good  
24 revisions, but we really want them to stick around.  
25 It's important to us.

1 I want to also clarify something. You've  
2 been calling it the JVC response and we're fine with  
3 that; however, I want you to be clear about the  
4 process under which this particular -- these  
5 submissions were provided to the FTC.

6 We basically had two work streams. One  
7 was within our board, we solicited views of the many  
8 sectors represented by the members of our Board of  
9 Directors. But we also had a very open process  
10 where we invited trade associations to participate  
11 with us, and individual companies, and even  
12 individuals, to join with us to provide inputs to  
13 all of the questions that the Federal Trade  
14 Commission submitted in connection with this  
15 revision to the Guides.

16 So it's important for you to know that  
17 what we've been calling the JVC really represents a  
18 very broad-based and very inclusive process where we  
19 took inputs from a wide variety and a wide array of  
20 industry experts and stakeholders from every sector  
21 of the industry. So I wanted to make that perfectly  
22 clear.

23 Now your first question pertained to what  
24 gets put into a piece of jewelry itself, either  
25 stamping or embossing or engraving or lasering or

1 whatever new technology gets created on how to mark  
2 a piece of jewelry. And our suggestion, again, from  
3 this broad array of industry experts and  
4 stakeholders, was that if we were to -- if the FTC  
5 were to permit alloys with lower than minimum  
6 standards of precious metals, you know, we're for  
7 that. And we also think that common sense, reason,  
8 and in the interest of consumer -- preventing  
9 consumer deception, that the industry should be able  
10 to freely describe what it is that they're producing  
11 and what it is that a consumer is considering  
12 purchasing.

13 But we think that the way that that has to  
14 be identified should be distinct from the fine  
15 jewelry products that meet the minimum standards of  
16 10 karat. And by the way, this wide array of  
17 industry associations and experts all committed --  
18 are continually committed to the minimum for gold  
19 being 10 karat to be able to call it fine jewelry,  
20 10 karat gold.

21 But we do think that the way that these  
22 are identified, marked, described out to be -- these  
23 lower than minimum standard alloys should be  
24 distinct, in order to distinguish them from fine  
25 jewelry. So our suggestion was to disclose the

1 amount of precious metal in these alloys freely, you  
2 know, go ahead and make them, market them, and go  
3 ahead and freely describe what's in them, including  
4 the amount of precious metal, but do it in a  
5 percentage as opposed to parts per thousand or  
6 karatage, because that is a distinct way to describe  
7 these metals, number one.

8 Number two, it is understandable across  
9 the array of the metals -- you know, silver is often  
10 described in parts per thousand, platinum as well.  
11 Gold is often not described in parts per thousand,  
12 but rather karatage, so this percentage is a uniform  
13 way to describe it.

14 And we think that the predominant metal  
15 ought to come first. If you're going to -- you  
16 know, you're free to describe all of the elements,  
17 all of the components of the alloy. You don't have  
18 to, we just think you must describe the percentage  
19 of the precious metal in the item. But if you're  
20 going to describe all the metals in the item, you  
21 have to put the predominate one first, so that a  
22 consumer understands what it's mostly made out of.

23 And then we also think it would be very  
24 important not to stamp the item. And that  
25 particular -- you know, what we felt was that based

---

1 on our research with consumer perception data, we  
2 understood that consumers ascribe certain value or a  
3 certain level of preciousness, if I may use that  
4 word, to items of jewelry that have the stamp in  
5 them, identifying the quality.

6 So that we felt -- we strongly felt, this  
7 whole group felt that it was important not to permit  
8 the quality content of the item to be stamped in the  
9 jewelry. So for instance, if you're marketing a  
10 metal like this with a lower than minimum amount of  
11 precious metal in it, and you wish to stamp it with  
12 a name like "Celebration" or something, that's fine.  
13 But not the percentage of the precious metal in the  
14 item.

15 So those were our suggestions in this  
16 regard.

17 MS. REENAH KIM: And is there a -- I  
18 understand that that's a component of the proposal  
19 that JVC submitted on behalf of -- or as part of its  
20 working group in its process, but what I'd like to



- 1 this is something that has to -- and I use regulated
- 2 in the loose sense of the word. And we think there
- 3 ought to be some way for the consumer to know what
- 4 it is they are buying.
- 5       And we would have to educate consumers to

- 1 Jumping back to Ewa's point, you mentioned that
- 2 there might be, for example, just an understanding



1 also clearly let the customer know exactly what they  
2 were purchasing if we used percentages and not a  
3 mark for below FTC minimum standards, okay?

4 And in terms of customer understanding, I  
5 think in all cases it is important to educate the  
6 customer. And we have a vast number of customers  
7 and products that are marked with karat stamps,  
8 bridal in particular, you know, really washes across  
9 the industry. I believe that the karat mark is  
10 clear. And of course there's always the opportunity  
11 to make it more clear.

12 I think the distinction between alloys  
13 that are lower than the FTC requirements at this  
14 time is the lack of a mark. You know, that's the  
15 distinction. Marking the quality of the metal, the  
16 purity of the metal for minimum standards going up,  
17 and not marking going down, which then I would  
18 surely assume that we would have the items sold and  
19 delivered to the customer with a description. And  
20 that might be one of the key elements in making sure  
21 that the customers are clear about the content.

22 MS. REENAH KIM: Ewa?

23 MS. ABRAMS: I query whether percentage  
24 content even is necessary in these thresholds below  
25 the current Guides, where we can simply describe the

1 item as metal, a mixed metal alloy or something  
2 similar. And just simply indicate, maybe as Cecilia  
3 suggested, from the most predominant metal to the  
4 least predominate metal, the elements that are  
5 included in that alloy.

6 So that rather than including percentages,  
7 to your point, that that could simply confuse the  
8 situation.

9 MS. REENAH KIM: So to clarify Ewa, for  
10 below standard alloys, it would simply -- it would  
11 be described as, this is a mixed metal alloy  
12 including, and let's say gold was 20 percent --

13 MS. ABRAMS: Yeah.

14 MS. REENAH KIM: -- including gold,  
15 silver, and base metals, but you wouldn't specify  
16 the amounts?

17 MS. ABRAMS: Yes.

18 MS. GARDNER: I think that's very  
19 dangerous.

20 MR. LEE: I don't think that's --

21 MS. REENAH KIM: And I would -- okay, so  
22 that is a suggestion. I think, you know, our  
23 concern is that if you don't include an amount, is

1 might have been more one metal than another. But at  
2 worst, I would think that maybe there's 25 percent  
3 of all four of those precious metals, when at the  
4 end of the day, what was happening was a little bit  
5 of gold and a little bit of platinum were being used  
6 so that they could use those big, cache names.

7 So I think that it's very important that  
8 if we go below, that we have complete disclosure to  
9 that consumer, whether a percentage or something  
10 else that they understand, okay? Just as we do  
11 today with juice, people can look on the back and  
12 say, well, it's got 2 percent cherry juice in it, so  
13 I'll make my decision based on that.

14 MS. REENAH KIM: Lisa?

15 MS. BROOKS-PIKE: I think if we leave out  
16 the percentages, we do more harm than good. And I  
17 think we need to know all of them.

18 Regarding the term fine jewelry that's  
19 being used, fine jewelry is in the eye of your  
20 wallet. A consumer's perception of fine jewelry, to  
21 them, is what they can afford. It may be that they  
22 perceive it to be a fine because of the stones that  
23 are in it. Does it have diamonds or do they think  
24 another stone is rarer.

25 As far as the value of that jewelry, what

1 you should pay for it, they associate that with  
2 karat marks. The reason they associate that with  
3 karat marks is because that's what we've taught  
4 them.

5 The rest of the world, I don't know if  
6 anybody else uses karat anymore besides us, they've  
7 all converted to metric. Can Americans learn  
8 metric? I think we can.

9 And I think that it wouldn't be -- when  
10 we're talking about stamping something, I would say  
11 that when we are talking about the new alloy that  
12 you have presented with Tiffany, I think most people  
13 consider that fine jewelry. What they don't know at  
14 this point, because you haven't been allowed to say  
15 it, is what's in it.

16 And I need to make a decision as to  
17 whether I'm sensitive to something that's in it. I  
18 think that all of it needs to be disclosed, not just  
19 the precious. Those certainly do. If it's got  
20 nickel in it and I'm sensitive to nickel, I need to  
21 know so that I can make that decision and then make  
22 a decision about how much I want to pay, which is  
23 also important.

24 MS. REENAH KIM: And that is a question I  
25 have, in terms of particularly when you get to this

1 universe of the below standard alloys. To what  
2 extent --

3 MS. BROOKS-PIKE: They're all -- I'm  
4 sorry. They're all alloys, except for 24.

5 MS. REENAH KIM: Thank you. The below  
6 standard products, to what extent would adopting the  
7 sort of, you know, the nutritional label approach,  
8 in terms of listing all the components, to what  
9 extent does that benefit consumers or conversely  
10 lead to potentially more risk of consumer confusion?

11 So for example, if you have a product,  
12 would there be any difference in a consumer's  
13 perception of value and quality if it is described  
14 simply as, contains 33 percent gold or the  
15 description says contains 33 percent gold and 67  
16 percent brass and copper. Charles?

17 MR. WAGNER: Again, I feel like we are  
18 somewhat disarmed in the fact that we have not  
19 conducted consumer research, but we do have lots of  
20 customers that we feel like understand these things.

21 When you think that 10 karat gold is less  
22 than 50 percent gold and it's an alloy, and then you  
23 go down to 8 karat or 5 karat or something like  
24 Tiffany is marketing, which is below that 10 karat  
25 threshold, and you have different standards for

1 describing them, I mean, just on its face, that  
2 seems very confusing to me. A consumer is going to  
3 be confused that if it's under 10 karat, that it is  
4 being described one way and if it's over 10 karat,  
5 it's being described a different way.

6 If the consumer doesn't understand a karat  
7 measure, there needs to be a -- in our opinion,  
8 there needs to be a uniform standard that applies  
9 what the content of gold is.

10 MS. REENAH KIM: Regardless of whether  
11 it's above 10 karat or below 10 karat?

12 MR. WAGNER: I think if it goes -- the  
13 answer is yes. I think if it goes above 10 karat  
14 and someone describes it as 10 karat and then it  
15 goes down to 5 karat, and it's done as a percentage,  
16 what's the relationship between that and 10 karat?  
17 The consumer doesn't know that. The consumer  
18 doesn't understand that. Everyone in this room  
19 understands it, but the basic consumer that is  
20 coming into Sterling or coming to Jewelry  
21 Television, in my opinion, doesn't understand that  
22 distinction.

23 MS. REENAH KIM: To what extent might  
24 additional disclosures or some form of consumer  
25 education help in advancing a general consumer

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1 understanding of karats versus percentage. And I  
2 know we are particularly stuck on the gold products,  
3 particularly because karats have been so long  
4 traditionally associated with expressing gold  
5 content.

6 I'd like to hear from a panel about your  
7 ideas and to what extent any disclosures, and in  
8 what form they might take, would be necessary to  
9 help clarify for the consumer being able to  
10 understand and make comparisons between -- if  
11 something were to be or if we were to have a  
12 universe where certain types of products were  
13 described as having, you know, 33 percent gold and  
14 other products were being described as 18 karat  
15 gold. Cecilia?

16 MS. GARDNER: Thanks for asking that again  
17 because I wanted to get back to that. And it's a  
18 good question because, based on the premise that a  
19 large part of the universe doesn't understand karat  
20 disclosures, you know, how does it help to have two  
21 views, two different methodologies?

22 And from the perspective of the responders  
23 that participated with the JVC, it was very  
24 important to maintain these two universes as  
25 distinct from each other and you have to draw a line

---

1 as to where these two universes divide and that line  
2 is 10 karat gold. So a product that is marketed as  
3 10 karat gold, you're finished with your disclosure  
4 and you can market it as a piece of 10 karat gold  
5 jewelry.

---

1 has a karatage stamped on it and if they look at the  
2 price, they might make a connection that, because  
3 the price is relatively high and comparable to  
4 something that would go for an 18 karat piece, they  
5 might think that they actually are getting, you  
6 know, whatever that value is in the precious metal  
7 content. And that's something that we do see with  
8 other products, where if they are able to assemble a  
9 product that resembles, at least to the  
10 untrained eye, a higher quality product --

11 MS. GARDNER: And for the moment.

12 MS. REENAH KIM: -- and if they charge  
13 those prices, they may be able to get away with a  
14 consumer being confused. And of course on the back  
15 end, it becomes -- it's a little messier to try to  
16 clean up on the back-end than if we were able to try  
17 to find a way to come up with disclosures in a, you  
18 know, marking or description system that would help  
19 clarify that confusion upfront.

1 that information that he has provided and insure  
2 that the consumer knows what it is.

3         So our take is a very simple one.  
4 Complete disclosure has to be done in advertising,  
5 marketing, and it even goes even further. It goes  
6 across what we call the 18 inches across the  
7 counter. Because they may not see the marketing.  
8 They may not -- so it's very important that it is  
9 required, when we are below these levels, that the  
10 consumer has every opportunity. If it's in a  
11 catalog, it should be stated that that's exactly  
12 what it is. And that's exactly what they suggest.  
13 But they can't control the retailer.

14         In fact, the example I gave earlier, that  
15 was a manufacturer, okay? When I talked to him, he  
16 said, well it's not our job to go out and see what  
17 the retailer is doing. That's what they're calling  
18 it in it's legal. And I said, well it's legal, but  
19 is it -- and he goes, well, it's probably a little  
20 deceiving, but it's still legal. So, I think you  
21 have manufacturers trying to --

22         MS. LAURA KIM: We call that illegal.

23         MR. LEE: Yes, yes. Manufacturers trying  
24 to do it the right way, but that the retailer will  
25 have to make sure that that is enforced across every

- 1 see a product description that simply says 22
- 2 percent, 44 percent, and 2 percent and they won't be
- 3 able to translate.
- 4       So I'd really like to hear from folks on

1 we can make that statement, and we do, to our  
2 consumers. But when you start trying to get in --  
3 and you've made a perfect point. When you start  
4 trying to get into, this has 18 percent boron, it's  
5 got this, that's when you really lose the consumer.  
6 And frankly, they don't seem to care at that point.  
7 Tell me how much precious metal is in it, I'm smart  
8 enough that I can figure that out, and figure the  
9 value equation.

10 MS. REENAH KIM: And just to -- you know,  
11 there are provisions in the Guides, as they are  
12 written now, relating to certain types of platinum  
13 alloys where, if you fall below certain thresholds  
14 and have a particular formulation of different  
15 platinum group metals, different pure platinum, the  
16 disclosures that you make differ than when you are  
17 above certain levels. I don't want to get into all  
18 the numbers here, because we all know it's pretty  
19 detailed. But the general principal being, when you  
20 fall below certain thresholds, you provide a listing  
21 of all the different, essentially all of the  
22 different metals. And in addition, you provide  
23 disclosure, essentially indicating that this product  
24 may not, for lack of a better word, perform in the  
25 same way you would expect a product that is higher

1 platinum content.

2 MR. LEE: That's an excellent point.

3 MS. REENAH KIM: And my question is, you  
4 know, those provisions have been out for a few years  
5 now. I'm curious to hear, particularly from people  
6 on the retail side, how effective has that form of  
7 disclosure been, where you're essentially giving the  
8 full listing, a listing up to 100 percent, telling  
9 people the full nutritional label, so to speak, and  
10 then also saying, performance may be different in x,  
11 y, and z respects. I'm curious to hear how that's  
12 been working and whether that would really work in  
13 this arena.

14 MS. GARDNER: But isn't that when it's  
15 only combined with non-platinum group metals?

16 MS. REENAH KIM: Correct.

17 MR. LEE: Yes, that's correct. Cobalt,  
18 things like that.

19 MS. REENAH KIM: Susan.

20 MS. KELLY: I think there's an opportunity  
21 to do great good and some harm. We need to, I  
22 think, be specific to always separate the precious  
23 metals and to not add silver, gold, whatever,  
24 together for one percentage or number. I think it's  
25 very important for the customer to understand if

1 they're getting 1 percent gold, 50 percent silver,  
2 plus other alloys. And I do think that ending plus  
3 other alloys, plus other metals, plus other  
4 whatever, that that is a piece of the information  
5 that will help the customer fully understand. And  
6 by having one percent gold or whatever, that is also  
7 clear. Because coming from retail, often, you know,  
8 what is 18 karat? It's 75 percent gold. That is  
9 the natural response and that's generally how we  
10 talk to karats.

11 So the platinum piece, I'm sorry, I cannot  
12 speak to that.

13 MS. REENAH KIM: Okay. Ewa.

14 MS. ABRAMS: I can't speak to the platinum  
15 piece because we don't sell pieces like that, but I  
16 do have a question as to whether or not we are  
17 interested in developing a standard for disclosure  
18 where an allow contains only one precious element,  
19 like gold. So to say, this product contains 33  
20 percent gold and other base metals, or whether we  
21 are interested in finding a standard for an alloy  
22 that contains more than one precious metal. Because  
23 I think we develop a more kind of confusing  
24 situation and standard where we are allowing for  
25 this type of disclosure, this percentage disclosure,

1 when there is only one precious metal. Then it is  
2 sort of fighting, let's say for example, gold. This  
3 item contains 20 percent gold and other base metals.  
4 That sort of --

5 MS. GARDNER: Yeah.

6 MS. ABRAMS: -- potentially fighting with  
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121414

MR. LEE: Yes, th- potentiaTj11.54w5.96 40r3-597(sor

1 MR. LEE: Absolutely.  
 2 MS. ABRAMS: -- how it --  
 3 MS. GARDNER: Exactly.  
 4 MR. MENON: You have a 10 karat white gold  
 5 with three precious metals, palladium -- it will  
 6 have palladium in it, it will have silver in it, and  
 7 it will have gold in it. You are still stamping it  
 8 only 10K.  
 9 MS. GARDNER: 10K, right.  
 10 MR. MENON: So why is it different --  
 11 MS. GARDNER: Because it's below minimum  
 12 thresholds. That's really why.  
 13 MR. LEE: And it's being marketed using  
 14 those precious metals.  
 15 MS. GARDNER: Right.  
 16 MS. REENAH KIM: Okay, just for the  
 17 record, I know this is -- I'm glad we are having  
 18 this discussion. I'm glad that everyone is -- I  
 19 just want to make sure that the court reporter can  
 20 keep up with us, so I want to make sure that we at  
 21 least don't speak over each other.  
 22 MS. GARDNER: Can I speak to your question  
 23 about platinum, if that's still a question in your  
 24 mind?  
 25 MS. REENAH KIM: Sure.

1 MS. GARDNER: If it's not, we can move on.  
 2 MS. REENAH KIM: Go ahead. No, I would  
 3 like to hear it.  
 4 MS. GARDNER: Platinum is different.  
 5 Platinum is special. And the history, you know, of  
 6 how platinum has been addressed by the Federal Trade  
 7 Commission and back when we were, you know, dealing  
 8 with voluntary standard, voluntary product  
 9 standards. You know, the whole history of how  
 10 platinum has been described into the consumer public  
 11 is just, frankly, different.  
 12 And what we were confronting at the time a  
 13 few years ago when we amended the Guides, is we were  
 14 being confronted with alloys that combined platinum  
 15 with non-platinum group metals. So now we were  
 16 having a new world, like we have today with these  
 17 below minimal threshold precious metal alloys. You  
 18 know, we needed to find a way to address that that  
 19 made sure consumers understood what they were  
 20 buying, that was usable to the manufacturing  
 21 community, and that could be explained -- could be  
 22 easily, or not easily or at least could be handled  
 23 by retail sales. So the suggestions we made in what  
 24 we gave to the Federal Trade Commission, in terms of  
 25 solutions, we felt met all of these concerns.

1 And it is our view, or my group's view,  
 2 that this particular suggestion about using  
 3 percentages for below minimal threshold alloys and  
 4 calling out all the precious metals in percentages,  
 5 and then leaving it optional as to whether you do  
 6 the whole cake mix percentages, you know, this meets  
 22 easilferen isndedke e tfTJether auTJinw mmaut usouTJinT





1 MS. REENAH KIM: We are closing in on the  
2 15 minute mark and I would like to give folks in the  
3 audience an opportunity to chime in. So we have a  
4 gentleman in the back row.

5 MR. AKKAOUI: Michael Akkaoui from Tannery  
6 Industries. Just a few comments about what I've  
7 heard this morning.

8 First, when you use the word alloy, there  
9 is an immediate connection between the word alloy  
10 and precious metal. When you get into the base  
11 metal world, there is a lot less talk about alloy  
12 than it is composition. So the lower you go below  
13 that 10 karat benchmark and the closer you get to  
14 "costume jewelry" the less conversation there is  
15 about the term alloy. And I just want to caution  
16 about that.

17 Secondly, the lack of disclosure when it  
18 comes to multiple metals in a composition, the  
19 further down you go below that 10 karat benchmark,  
20 the closer you get to costume jewelry. And just  
21 like the CPSC was battling cadmium and trying to  
22 remove that -- when you start getting foreign  
23 imports into the subject matter, and you will --

24 MS. GARDNER: We already do.

25 MR. AKKAOUI: -- you already do. And the

1 manufacturers in this room are very, very careful to  
2 test their product --

3 MR. HERSKOVITS: Absolutely.

4 MR. AKKAOUI: -- to make sure that it  
5 wears properly and there's corrosion protection, so  
6 on and so forth. Again, the further you go down  
7 below that 10 karat, the closer you get to costume  
8 jewelry, the more that composition is going to  
9 become important. And I would argue that perhaps it  
10 is even a consumer safety issue at a certain point  
11 in time. So I just wanted to throw that out there.

12 MS. REENAH KIM: Ewa.

13 MS. ABRAMS: That's why I think it is  
14 important to potentially explore that these  
15 standards that we are creating are developed for

1 MS. POTEET: Veronica Poteet and I'm a  
2 geologist and I'm associated with the Jeweler's  
3 Ethics Association.  
4 I'm going to sit back down, but I think  
5 the precious metals, whether it is silver, gold,  
6 platinum, you have a percentage of how much precious  
7 metal is in that item. And to me, putting on a  
8 consumer hat, if there's less than 50 percent  
9 precious metal in the whole alloy, you know, it's  
10 not really -- I know that we are already below that  
11 threshold.

12 MS. GARDNER: You can't unwind 10K.

13 MS. POTEET: Yeah, I know you can't unwind  
14 it, but it's just -- to sort of move on, gold is  
15 known by karats. And a lot of consumers, if they  
16 have someone to tell them the difference, they get  
17 the difference. But they don't get the difference.

18 So they know 10 karat, and they see fine  
19 jewelry, I just think that to do percentages, to put  
20 the percentage mark in is really confusing. To do  
21 decimals is great and I've been a big fan of the  
22 metric system my whole life as a scientist, so.

23 But we're not getting there in this  
24 country. We are not going to get there, but we do  
25 with platinum, so that's a step, but all of this is

1 in karats, so --

2 MS. BROOKS-PIKE: So we can learn.

3 MS. POTEET: We can learn, but karats goes  
4 way back and I just think that, you know, I don't  
5 see a problem with saying 6 karats. I really don't.

6 MS. GARDNER: Well, we have to disagree.

7 MS. POTEET: It has to be enough to make  
8 it a fine piece of jewelry. Because if it's just  
9 like 1 karat of gold and then the rest is base  
10 metals, that's costume.

11 MS. REENAH KIM: We have a gentleman in  
12 the middle row who has been waiting.

13 MR. LUSTIGMAN: Hi. Sheldon Lustigman, I  
14 represent New Annex Plating.

15 I think the percentage that you are  
16 raising is good, to a point, but I don't think it's  
17 enough. I think the consumer needs to understand  
18 how much is in it so that you want to disclose not  
19 only the percentage, however you do it, by decimals  
20 or whatever, but also the weight.

21 So if you are comparing, for example, two  
22 ingots, one made of 10 karat gold and another one of  
23 18 karat gold, if you are comparing 4 ounces of the  
24 10 karat gold versus 2 ounces of 18 karat, for the  
25 consumer to understand which is worth more, he needs

1 to calculate, you know, how much gold is in it,  
2 which they can easily do by times 0.16 and --

3 MS. GARDNER: You already lost me.

4 MR. LEE: Yeah, I --

5 MR. LUSTIGMAN: You can easily -- you can  
6 calculate how much gold is there if you know the  
7 weight. Not only the percentage, but the weight.  
8 That's the way --

9 MR. MENON: That's the way the price for  
10 each -- by weight, on the karats. So it's already  
11 calculated in and that's --

12 MR. LUSTIGMAN: No, it's not because I can  
13 -- I or anyone can pick any number they want for a  
14 price. It doesn't mean it's that much more gold in  
15 it than there is in something else.

16 So if you disclose two ounces, four grams,  
17 whatever of the precious metal, and that is what it  
18 is, that will allow consumers to make a value  
19 comparison, an easy comparison as to which one to  
20 purchase.

21 MR. REENAH KIM: Thank you. I do want to  
22 -- we have about five minutes left and there are a  
23 couple of people who have been waiting patiently and  
24 I want to make sure that I get to them. Mr. Hanna  
25 and then --

1 MR. HANNA: I'm Mark Hanna from Richline.  
2 I'm sitting back down, too. Just one point and one  
3 question.

4 We have now, within the Guides, something  
5 called indistinguishable. It's quite a well-used  
6 phrase, particularly when we are talking about it  
7 being gold and silver -- I'd like to see this  
8 harmonized with what we are talking about now. I  
9 think that it's dealing with basically the same  
10 issue. We are not allowed to say sterling silver  
11 plus 14 karat gold if, in fact, that's what the  
12 product is made of.

13 MS. GARDNER: That's the next panel.

14 MR. HANNA: No, it's not.

15 MS. BROOKS-PIKE: Full disclosure is  
16 always best and that's the intent of the Guides. If  
17 we have any opportunity -- and I'll be really quick.

18 I think that both the Yellora and -- is it  
19 Rubido or Rubado, Rubado, were harmed by the current  
20 Guides. And I think that additionally, it caused  
21 you to use a term of a new metal, which it isn't.  
22 It is a new alloy. There was nothing new on the  
23 periodic table.

24 So actually, it almost put you in a  
25 position of doing something that could be

1 misleading. You know what I mean? Right, yeah.

2 It's a new alloy.

3       So they need to be able to say, they've  
4 got a great product. They've got a great product,  
5 we need to know what's in it so we can make our  
6 decision as buyers to choose what we want to spend.

7       MR. HANNA: And my question was that,  
8 using this percentage basis, so what 4 percent gold,  
9 that's also 10 percent 10 karat gold, are we  
10 excluding the ability to talk about the percentage  
11 of the karats entirely by this?

12       MS. GARDNER: No.

13       MR. HANNA: Or are we allowing that as  
14 part of the description, as long as we're disclosing  
15 the percentage of fine gold?

16       MS. GARDNER: The suggestion that we're  
17 making is that, as a minimum requirement, you can  
18 always do more, that you have to say the percentage  
19 of the precious metal, whether it is silver --

20       MR. HANNA: As a parentage --

21       MS. GARDNER: -- alone, whether it's gold,  
22 as a percentage.

23       MR. HANNA: Of fine gold, okay.

24       MS. GARDNER: Mm-hmm. But one other point  
25 I want to make also. You know, it is standard

## 1 PANEL TWO

2 - - - -

3 MS. KOSS: I think we'll get started. I'm  
4 assuming that the panel name tents are the ones that  
5 we have sitting here and we haven't left the other  
6 ones.

7 Again, my name is Laura Koss with the  
8 Federal Trade Commission. Thanks for sticking with  
9 us today. Now, we are moving on to panel number two  
10 which focuses on issues concerning the surface layer  
11 application of precious metals on products. As I'm  
12 sure you know, the current Guides discuss certain  
13 aspects of certain surface applications for gold,  
14 for vermeil and, to a more limited extent, for  
15 silver. And they advise that surface platings be of  
16 such thickness and extent of surface coverage that  
17 reasonable durability is assured or that all

1 how to create products that meet standards for these  
2 words. We have consumers who have some knowledge  
3 about them, in the very complex context. And I say  
4 that because we are talking about two different  
5 processes of creating an application of precious  
6 metal. And I understand your point, and it is  
7 well-taken, consumers aren't so interested in the  
8 fact that there are two processes, but there are.  
9 They perform, you know, different -- experiences in  
10 how they perform, how much metal is required, given  
11 the process.

12 And also, now that we are living in a  
13 world where it is not just gold that is the primary  
14 precious metal used to create a surface layer  
15 application, but we are in a world now where many  
16 other precious metals are used, including silver and  
17 the platinum group metals.

18 So we have sort of this complex  
19 environment. We have two processes, we have several  
20 precious metals that perform differently. Wear  
21 tests show that they should be -- different amounts  
22 are required to create a durable product to meet  
23 consumer expectations. I mean, what consumers do  
24 expect, and research has shown, I think, as Reenah  
25 pointed out, they do expect certain product

1 attributes, once you identify products as having a  
2 precious metal. They expect durability to some  
3 extent, to a large extent, and they expect tarnish  
4 resistance. So they do expect that.

5 We have these variety of precious metals,  
6 we have two ways of applying those precious metals,  
7 we have a baseline of consumer understanding, some  
8 understanding, we have efforts in the industry to  
9 enlarge that understanding while educating on the  
10 differences between processes and what different  
11 terms mean. So to us, as you know from our  
12 submission, we recommended keeping eleven of the  
13 terms, creating standards for them, allowing the  
14 industry to use those terms, create that level  
15 playing field in the industry, and then the big  
16 piece, of course, is consumer education. It seemed  
17 a very good place to start and a good way to address  
18 what's a complex environment.

19 MS. KOSS: So just one point of  
20 clarification. You said that the consumer  
21 perception indicates that consumers have a baseline  
22 understanding of these terms, but does that mean  
23 that they can distinguish between the terms? You  
24 were saying they know a plate, an electroplate, or a  
25 rolled gold plate is different than a product that

1 is not surface-plated.

2 MS. FLAMM: Well, those -- the questions  
3 weren't asked or phrased exactly that way. They  
4 said they have familiarity, I think, was the way the  
5 question was phrased. They had some familiarity  
6 with the term, and they were also asked were these  
7 terms useful. Those were the questions that were  
8 asked. Exactly, you know, if we were to ask  
9 follow-up questions or dig down, what we would find  
10 out, I couldn't really tell you. But it does  
11 indicate to us that we are starting somewhere with  
12 keeping those terms.

13 MS. KOSS: Okay. And I'd like to hear a  
14 retailer's perspective, so I'm going to start with  
15 you, Susan. If you could tell me a little bit about  
16 whether QVC has any insights, in terms of marketing  
17 these products to consumers, and how you emphasize  
18 or whether you emphasize a difference between the  
19 electrolytic applications or the mechanical  
20 applications or whether consumers even ask or care  
21 about the minimum thresholds, et cetera.

22 MS. KELLY: That's great. Thank you for  
23 asking. We, right now in our product mix, have  
24 plated, electroplated products, using the  
25 electrolytic method.

1 We had very little mechanical joined  
2 precious metals. Occasionally we will have the  
3 1/20th, 14 karat gold-filled chain. That's a very,  
4 very small mix in our product.

5 We have, in our descriptions, felt it very  
6 important to explain that we are plating, meaning  
7 the process, 18 karat gold onto a sterling product.  
8 We have brand names that use the word "clad." And we  
9 came up with our own rather heavy duty thicknesses  
10 that we require our vendors to supply in order to  
11 use that term. And I see it on a list of proposals  
12 and I'd like to get back to that.

13 But in terms of our customers questioning  
14 thicknesses or anything very specific about a  
15 product, that's not something that's happened. I  
16 think if the -- my conclusion is that our product  
17 has been monitored by our company. The types of  
18 applications we have used are thick enough to  
19 provide the durability that our customers are  
20 expecting, as reflected in our repeated business for  
21 brands that are very strong, the plated brands, the  
22 Epiphany platinum clad and 18 karat gold clad  
23 Veronese.

24 So I think we've landed in a sweet spot in  
25 terms of plating. And the FTC guidelines, as they

1 are, provided guidance for us and our manufacturers,  
 2 but in addition to that, we worked with the term  
 3 "plated" and upped the ante a good amount in terms  
 4 of thickness in order to use our brand name,  
 5 platinum clad or 18 karat clad. And we published  
 6 this in our guidelines to our vendors and it is  
 7 easily compared to the FTC requirements. So we are  
 8 running a good amount thicker for the platinum clad  
 9 and epiphany clad and it is performing well.

10 MS. KOSS: And Pam, what about you and  
 11 your experience with JCPenney?

12 MS. MORTENSEN: I agree with Sue that the  
 13 customer really does not understand plating.  
 14 They're not asking that. What they do understand is  
 15 the durability when it doesn't perform.

16 So what happens is, if you don't have the  
 17 proper amount of plating on a product, you'll get it  
 18 back. So I mean, that's one of the things that, as  
 19 a retailer, for the consumer you want to offer them  
 20 the best product that you can.

21 But I do feel that there's like an uneven  
 22 playing field. Because plated goods have, as you  
 23 know, can have a variety of coatings, the level of  
 24 plating. So what they might see as plated at  
 25 another retailer versus QVC, which has higher

1 standards, there's really no standard to the  
 2 customer to allow them to know what they're getting.

3 MS. KOSS: Mm-hmm.

4 MS. FLAMM: I wonder if I might add just  
 5 one thing, it reminds me of a point I should have  
 6 made earlier, if that's okay.

7 MS. KOSS: Sure.

8 MS. FLAMM: We just heard two retailers  
 9 use two of those terms, clad and plated, which  
 10 speaks to the point that those words are out there,  
 11 consumers are hearing them, the industry uses them.  
 12 And yet I don't know if they mean the same thing  
 13 when they say those words. I don't know if anyone  
 14 at this table means the same thing when they say  
 15 those words.

16 Someone could say, for instance, platinum  
 17 clad and could mean a product with a certain amount  
 18 of platinum on it that has been mechanically  
 19 applied. Someone else at this table can use that  
 20 same word to mean a certain amount of platinum that  
 21 has been electrolytically applied and they could be  
 22 talking about a difference in the amount of metal,  
 23 precious metal, that could be three times as much as  
 24 the other or more.

25 So it's just a point that I should have

1 made initially that those terms are out there.  
 2 Retailers use them, we heard them, and the FTC could  
 3 just do a huge service to consumers and the industry  
 4 by saying, okay, this is what these terms mean.

5 MS. KOSS: Okay. And quick question for  
 6 you, Suzan. You mentioned clad as a term that  
 7 you're not sure how people are using it. But JVC,  
 8 in particular, refers to it as a mechanical  
 9 application, is that correct?

10 MS. FLAMM: Yes. Our understanding is  
 11 that that is the majority used, but it has come to  
 12 my attention that that is not the exclusive use of  
 13 the term.

14 MS. KOSS: And is that, the fact that you  
 15 have tied it to mechanical, what does that -- are  
 16 you basing that on the fact that that is industry  
 17 standard or that's how consumers understand that to  
 18 be mechanical application?

19 MS. FLAMM: We believe that is -- the  
 20 predominant use of the word in the industry reflects  
 21 mechanical. And we believe, from the consumer  
 22 research that we did and which you have, that  
 23 consumers say that they are familiar with it, to  
 24 some extent are familiar with the term. Not an  
 25 overwhelming extent, but to some extent are familiar

1 with the term and to some extent find it to be  
 2 useful. So those are the three points.

3 MS. KOSS: And not to pick on you --

4 MS. FLAMM: That's okay.

5 MS. KOSS: -- but one more follow-up

---

1 consumers will catch up with the way the industry is  
2 using it and because these products are becoming  
3 marketed. So in other words, the products that are  
4 marketed as 1/20th, which is, you know, a lot of  
5 precious metal, that's a lot of precious metal in  
6 the world of these surface layer application  
7 products. 1/20th is a lot.



---

1 the clarity intention than separating them would be.

2 MS. KOSS: When you talk about confusion,  
3 are you referring to consumer confusion or are you  
4 talking about confusion in the industry?

5 MR. HANNA: Overall confusion. If you are  
6 talking 1/20th by weight when you are talking about  
7 a gold-filled product and you are talking about 0.5  
8 micro when you are talking about electrolytic, how  
9 does those relate to each other? Does anyone really  
10 understand that?

11 MS. KOSS: Right. And yet in the comment,  
12 and I think it was the JVC Sterling Richline  
13 comment, you are now -- or the latest comment from  
14 JVC talks about instead of having the weight  
15 disclosure, you are now saying that based on  
16 durability testing, you would use a 4.32 micron  
17 standard. And yet you are still retaining the  
18 1/20th, the standard based on industry use.

19 There's a little bit of confusion there on  
20 our part, because you are saying that this is a new  
21 standard that marketers should use based on

---

1 In terms of the plating, we have the  
2 electroplate, the plated, the heavy gold  
3 electroplate and that is where QVC has placed the  
4 word clad. And the clad objects were very carefully  
5 looked at in terms of, yes, the material and the  
6 thickness for the performay99 reterfor theu of, additio, yo6 t7ickness foat, it wthemay9typeatinitem.6 t8 In term

1 but what they do do is try to equate, okay, this  
2 many hours in a wear test equates to this many  
3 months of use, given common consumer use of a  
4 product. That is, you have it on your finger,  
5 you're washing dishes, you're gardening, that's the  
6 equation that's used. And it did seem to make a lot  
7 of common sense and it seemed like a good place to  
8 try to come up with a baseline.

9 Because it does seem that it's very  
10 important that there be some standard below which  
11 consumers are told, hey, you know, durability here  
12 is just not great.

13 MS. KOSS: Mm-hmm.

14 MS. FLAMM: And it seemed that that seems  
15 to be the best place to pen that standard to it, was  
16 the thickness.

17 MS. KOSS: Dee.

18 MS. MERINO: I guess I'm a bit confused  
19 and need some clarification as what you guys are  
20 defining as durability. Is it, is it going to  
21 tarnish? Because sterling silver is going to  
22 tarnish no matter -- I mean, if it's pure silver it  
23 is going to tarnish instantly. So if tarnishing is  
24 your definition of durability, you can use defining  
25 the millimeters of plating to say that that is going

1 to improve it or not.

2 And the other thing is, the consumer's  
3 expectation as to how long is it going to take  
4 before that item does -- what's the wearability. Is  
5 it going to take six months for it to wear through  
6 the plating? Is it going to take a year? Is it  
7 supposed to last five years? And unfortunately, I  
8 think that relates to -- and I think maybe it was  
9 Lisa that commented, that relates to the value of  
10 the item and how much the consumer paid for that  
11 item.

12 And I know we don't want to talk about  
13 cost and price, but a lot of these goods that we are  
14 talking about today, that are plated with sterling  
15 silver or plated with gold over a base metal, it's  
16 priced at price points that are eight dollars or ten  
17 dollars or twelve dollars or fifteen dollars. I  
18 don't know that the consumer expects that item to  
19 last for three years before the plating wears off.  
20 And I don't know that we can set the Guides that it  
21 is only saying that durability has to compete with  
22 the level of fine jewelry durability.

23 MR. CLAPPROOD: If I could speak to that  
24 if I could? The testing that we did was based on  
25 comparing electrolytic plating to mechanical bonding

1 for two reasons.

2 For one, to ensure that the consumer had a  
3 clear protection in terms of intrinsic value of the  
4 metal. Meaning that if the mechanically bonded  
5 material wore off quicker than electrolytically-plated  
6 material, they would lose intrinsic value. And that's  
7 something that we believe is important to the customer.  
8 It is very similar to the last discussion about mixed  
9 metals and the consumer knowing, what is this actually  
10 worth in terms of metal value.

11 Secondly, we wanted to see if there was a  
12 delineation between how quickly this material wore  
13 off and when would it get to the point where the  
14 consumer had something that wasn't necessarily  
15 viable. Now viable is sort of ambiguous. What you  
16 might think still looks good might not look good to  
17 someone else, so we had to try to build some  
18 correlations between relative wear between  
19 electrolytically-plated and mechanically bonded.

20 What we didn't do is we didn't make a  
21 correlation between rate of wear and time of use.  
22 So would the consumer have this piece of jewelry for  
23 five years, based on the rate of wear, or ten years?  
24 I think what Michael did, and he did it very well,  
25 was he tried to build a correlation between the two

1 and said, I believe, based on my professional  
2 experience and all the analysis that we did, that  
3 this rate of wear equates to one year of use in the  
4 field.

5 MR. AKKAOUI: If I could comment on that?

6 MS. KOSS: Sure.

7 MR. AKKAOUI: If you jump back first to  
8 your earlier question about clear coats and other  
9 factors of wear.

10 MS. KOSS: Mm-hmm.

11 MR. AKKAOUI: There are plenty of factors  
12 of wear, they'll make your head spin. But in  
13 particular, if you put a clear coat on an item that  
14 has less than the recommended benchmark for gold,  
15 let's say 3 micro inches of gold versus 7, similar  
16 to what the Europeans did when they were determining  
17 testing for nickel-free products, the mandate was  
18 you needed to test that product without the  
19 clear-coat. Because you can encapsulate a product  
20 and have it pass the nickel-free test.

21 So the mandate there was, you have to take  
22 the clear-coat off and then test it. And if it  
23 passes without the clear-coat, then you've got a  
24 good product.

25 It's a similar thing. Clear-coats are not

1 very good. They wear off, depending on how they are  
2 applied, they are adding just marginal protection to  
3 the product. So the guidelines, I believe, provide  
4 a baseline of a guaranteed performance when you set  
5 a benchmark at 7 micro inches or higher, for gold in  
6 particular, these benchmarks are, I think, highly  
7 critical. Because you can't assure yourself that  
8 the clear-coat that is used across the world is  
9 going to be of any certain quality. So I think that  
10 distinction is very, very important.

11         The wear testing that we did, to answer  
12 Dee's question, was not for tarnishing. The world  
13 of silver and silver-plating is constantly battling  
14 with the idea of why does silver tarnish and how can  
15 we prevent it from tarnishing? How do we get it  
16 from the shelf and then to the consumer without  
17 tarnishing? It's an old debate and that's not what  
18 we did. We did our testing based on, at what point  
19 does it get to a metal that the consumer doesn't  
20 want to see?

21         So if it's over nickel, how long does it  
22 take to get to that nickel, and/or if it is over  
23 something else, copper for instance or palladium.

24         So our testing was really trying to  
25 determine a baseline Taber testing, which is used

1 across a multitude of industries. Taber testing is  
2 like the test for wearability in almost any industry  
3 that you go into. So we worked with Taber to  
4 determine what's the weight of a touch. Basically,  
5 if we can define what the weight of a touch is,  
6 okay, then we can calibrate the Taber test to mimic  
7 normal wear. Not abusive wear, but normal wear.  
8 And so we did that. We did some research.



1 calibrate an x-ray fluorescence machine properly, to  
2 read the difference between 10 karat and 23 karat,  
3 first you have to know it. And if it's coming in  
4 from overseas, who knows? I don't know. I'm given  
5 product every day to read, I have no idea if it is  
6 10 karat or 23 karat.

7 MS. KOSS: Mm-hmm, right. Now Susan, I  
8 want to hear first from Susan and then Pam, you  
9 next. I want to hear that, in terms of marketing  
10 and whether -- how you are communicating to  
11 consumers, what is your approach when you do have an  
12 alloy that is, you know, less than 10 karats or less  
13 than 22 karats? Have you made any disclosures? Has  
14 there been a consumer problem? Have you received  
15 consumer complaints when the alloy -- you know,  
16 because of tarnishing? I'm just curious about your  
17 experience as retailers.

18 But I'm going to start with Susan, since  
19 you had your hand up.

20 MS. KELLY: I want to first mention that  
21 our product, at this time, does not include anything  
22 lower than 14 karat, so I'm not familiar with the  
23 bleeding.

24 But I can say that we apply a thickness --  
25 if we were applying a thickness of a 24 or 23.5

1 karat plate, our understanding is that to name the  
2 product as plated gold, it would need to be 0.5  
3 micron. But if we cut the karatage of the gold in  
4 half to 12 karat, we would need to plate one full  
5 micron thickness in order to meet the FTC  
6 requirements. That's a footnote that refers to the  
7 fine gold equivalency, so --

8 MS. KOSS: Yeah, I'm going to get to that.

9 MS. KELLY: Okay.

10 MS. KOSS: I'm going to get to that in a  
11 minute.

12 MS. KELLY: So we do that. But in terms  
13 of marketing the value we, in our descriptions,  
14 always precede the word "plated" with the karatage  
15 that is proven through an SRF analysis.

16 MS. KOSS: But do consumers understand,  
17 when you provide that number, what that means?

18 MS. KELLY: I can't -- you know, no  
19 absolutes, but I believe that the customers  
20 understand the difference between 14 karat gold  
21 plate and 18 karat gold plate. And by the longevity  
22 of the product and its performance, they understand  
23 that it is meeting their needs. But finer  
24 definitions or finer data to the customer, we  
25 haven't shared it.

1 And I haven't seen any negative trends for  
2 plating. Again, possibly because of the 14 karat  
3 and up.

4 MS. KOSS: And Pam?

5 MS. MORTENSEN: We do the same thing. We  
6 always distinguish the karatage, 14 karat or 18  
7 karat, before the plating.

8 And I do not think the -- I think the  
9 consumer thinks that 18 karat is better than 14  
10 karat. I think that they understand that.

11 But what Dee talked about, I mean there is  
12 product, we sell, open sell, product on the floor  
13 that is opening price point. I mean, we sell  
14 product that is under glass that is a higher price  
15 point. They have different plating microns, might  
16 it be 0.5 micron for the open sell, because it is,  
17 you know, the expectation of the customer is that it  
18 does not have the longevity of what they are going  
19 to find in the fine jewelry department.

20 So there is a difference in the thickness  
21 of plating that we put on, depending on, I think,  
22 what the customer is expecting.

23 MS. KOSS: Okay. So I want to touch on,  
24 you mentioned, Susan, the equivalency issue. So for  
25 gold electrolytic plating applications, is there an

1 impact on performance and quality of the product, if  
2 a manufacturer uses a thicker amount of lower  
3 fineness gold on a product rather than a thinner  
4 product of higher fineness gold? Because the Guide  
5 refers to achieving an equivalent amount of, what is  
6 it, 0.175 microns. So is that an issue? And I  
7 think, Michael, you want to -- it seems like you  
8 want to speak to that.

9 MR. AKKAOUI: Well, I don't think that the  
10 Guides explain that very well, to be quite honest  
11 with you. And I don't think that, in general, people  
12 understand that if you change the karat -- and let's  
13 face it, the reason why the karat issue has come up  
14 is because the price of gold has sky-rocketed.  
15 Prior to that, there was a very even playing field.  
16 There was one method of measurement. There was one  
17 standard, to a large degree. The only folks using  
18 low karat was the watch industry. They would use  
19 200 millionths of an inch of low karat and 200  
20 millionths of an inch of high karat, because they  
21 understood the bleed-out issue.

22 So you know, that's where this issue has  
23 come. It has come because of the market price of  
24 gold. But if you read into the particular language  
25 about the equivalency, I'm not sure that that's well



1 because we use him sometimes.

2 MS. KOSS: Yes, Michael.

3 MR. AKKAOUI: Our study incorporated  
4 silver as well. And to our surprise, and I'll say  
5 this admittedly, that we found that 40 micro inches  
6 of silver plate actually wore better than  
7 anticipated.

8 If you look in our exhibit, you'll find a  
9 chart that includes this information. We compared  
10 one hundred millionths, or 2.5 microns of silver  
11 plate, to one micron or 40 millionths of silver  
12 plate and found, in comparison, to look at the other  
13 metals that we were defining benchmarks for, that  
14 the silver, pure silver plate, this is 39 silver  
15 deposit, went 6,000 cycles on the linear Taber test,  
16 which we were quite impressed with.

17 So you know, from my just personal  
18 perspective, I wouldn't have a problem lowering our  
19 benchmark that has been recommended to the 40, as it  
20 did perform, again, relative to the other metals  
21 that we tested, relatively well at that benchmark.

22 MS. KOSS: Okay. Just so I understand  
23 what you're saying, based on further testing -- in  
24 other words, that recommendation isn't incorporated  
25 in the declaration that you submitted with the --

16

122

1 MR. AKKAOUI: We recommended one hundred  
2 millionths of an inch or 2.5 microns.

3 MS. KOSS: Uh-huh.

4 MR. AKKAOUI: But this test data is being  
5 done at basically the same time that the  
6 recommendations were being formulated. And I was  
7 obviously very comfortable in keeping with the 100  
8 micro inch recommendation. The value on a pot of  
9 that much more silver, at least for me, was not that  
10 much more significant so we kind of left it at 100.  
11 But the test data at 40 was actually pretty good.

12 MS. KOSS: Do you plan to submit that  
13 additional testing on the public record?

14 MR. AKKAOUI: Well, it is currently on the  
15 --

16 MS. KOSS: Okay, all right.

17 MR. AKKAOUI: -- in what you have, yes.

18 MS. KOSS: So now I want to move on to a  
19 discussion that is more specifically focused on  
20 disclosures about lack of durability. And I know  
21 that the JVC task force comment talked about using  
22 the eleven terms, if you meet a threshold. And if  
23 it's below the threshold, there could be a  
24 disclosure about durability is not assured.

25 So I'm wondering about -- and I think I



1 precious metal and you've now triggered expectations  
2 in a consumer's mind about durability. You are  
3 going to have to tell them that durability is not  
4 assured.

5       If they choose not to reference the  
6 precious metal, then they certainly don't say  
7 anything. And certainly nothing we are recommending  
8 would prevent any manufacturer or seller from  
9 selling these products. It's just about letting  
10 consumers know -- you hear the word gold and you're  
11 thinking certain things, while it may not perform  
12 within your expectations.

13       MS. KOSS: So Susan, you mentioned  
14 disclosing special care requirements.

15       MS. KELLY: Mm-hmm.

16       MS. KOSS: And I'm just wondering if you  
17 can elaborate on how, whether you believe there are  
18 sufficient to cure any consumer deception. Are the  
19 care requirements or that kind of information  
20 enough?

21       MS. KELLY: My feeling is that it is  
22 giving a level playing field. If we feel that any  
23 plateis  
22can elaborataommthe

1 understand those terms?

2 MS. KELLY: I believe it is very clearly

3 understood. We apply those terms only to costume

4 jewelry brands that are well-defined and they are

5 not mixed in with fine gold or precious metal items.

6 MS. MORTENSEN: I would agree with Sue on

7 that because we also carry costume jewelry that is

8 goldtone or silvertone and I think that we try to

9 distinguish between the two. Whenever we talk about

10 gold, it is really gold. We put a karat in the

11 front of it.

12 MS. KOSS: So that, I think, is another

13 good transition to what I want to focus on, and

14 that's all of the other terms that we've left out.

15 You know, we've talked specifically about rolled

16 gold plate, about the fill, to a certain degree, but

1 MS. KOSS: Suzan.  
 2 MS. FLAMM: To return to your question  
 3 about certain terms, duragold, durigold, washed and  
 4 referencing some of the terms that we are suggesting  
 5 no longer need to be addressed specifically by the  
 6 Guides, it really goes back to our effort to, not  
 7 only unify the sections in the Guides that address  
 8 precious metal applications, that is to make them  
 9 global so that they address all of the precious  
 10 metals, but also to the extent possible, given the  
 11 complexity of these products, to simplify.  
 12 And so that was a process of determining  
 13 which terms really were essential, which terms were  
 14 consumers being educated on, which terms should they  
 15 be educated on, and which terms were really no  
 16 longer being used or necessary to define. So that's  
 17 the duragold/durigold. I'm in the industry over  
 18 five years and I didn't know what those meant.  
 19 Moreover, no one in my office knew what they meant.  
 20 And it seemed like we really don't need those. We  
 21 don't need to burn into the Guides, and in consumers  
 22 -- no one is out there trying to educate consumers  
 23 about what those words mean.  
 24 MS. KOSS: Right.  
 25 MS. FLAMM: Those can go. In terms of

1 gold flash and gold wash, any manufacturer or seller  
 2 is welcome to use those terms, but since the way --  
 3 what those products are today are generally,  
 4 products described with those terms are going to be  
 5 below those minimums that we recommend, they are  
 6 going to need a -- or we suggest that there be a  
 7 disclosure made about durability. It seemed that  
 8 those were not necessary to define in the Guides  
 9 specifically, but they are not words that -- since  
 10 they would be accompanied by the disclosure, as they  
 11 are currently used.  
 12 So that was all part of our effort to --  
 13 which words do we currently need here? How can we  
 14 really make an effort to -- these products are big in  
 15 the marketplace, consumers want them, sellers are  
 16 able to reach price points they want to reach by  
 17 selling them, it's all a good thing. But how can we  
 18 protect consumers and how can we make this a little  
 19 simpler for everybody, especially for consumers, and  
 20 then start educating them as to what this stuff is.  
 21 MS. KOSS: Okay. I want to make sure I  
 22 heard you correctly, because currently the Guides  
 23 state that you can state gold flashed or gold  
 24 washed, even if you are below the threshold.  
 25 MS. FLAMM: Yes.

1 MS. KOSS: Even without any kind of a







1 that need to be disclosed?

2 MS. FLAMM: We don't take the position  
3 that -- you know, our position starts like this. If  
4 you reference precious metal plating then all of  
5 this stuff has to happen. You have to use different  
6 words, you should use certain defined terms then,  
7 and you have to give a warning that durability is  
8 not assured.

9 If you choose not to reference the  
10 precious metal plating generally, then there's no  
11 requirements. The exception is rhodium plating,  
12 because that's -- it's just its own animal. I mean,  
13 it's not referenced, and yet it is one that really  
14 should be because it is very prevalent in the  
15 industry. If that -- when that plating comes off,  
16 the consumer is going to see a yellow or a substrate  
17 underneath and we know that they will be  
18 disappointed, because we hear from the retailers  
19 that they are upset by that.

20 MS. MORTENSEN: I think that the  
21 difference is that we are disclosing that it is  
22 plated by saying sterling silver, 14 karat plate or  
23 14 karat wash. Bridal product, we are not  
24 disclosing that there is a rhodium plating. It's  
25 just -- we tag it, it's white gold.

1 MS. KOSS: Right. But Suzan, your  
2 position would be, or JVCs position would be that,  
3 for rhodium plating, in addition -- if you are  
4 saying rhodium plating, if it is below the threshold  
5 that JVC has suggested, then not only do you need to  
6 have the disclosure about the reasonable durability  
7 isn't insured, or whatever the wording was, you also  
8 would additionally have to disclose the fact that it  
9 needs to be replated or retreated?

10 MS. FLAMM: Well, I think --

11 MS. KOSS: Because that's not the way I  
12 understood --

13 MS. FLAMM: -- that that's up to the  
14 panel. The sense of the panel is that additional  
15 disclosure. And that was not in our recommendation.

16 MS. KOSS: Okay, I just wanted to clarify.

17 MS. FLAMM: I'm getting the sense of the  
18 panel of that and it's striking me as -- I mean, the  
19 way we left was that would cause the beginning of  
20 the conversation about what this plating is and  
21 what's required and how you keep this product with us,  
22 but an affirmative obligation to say hey, that this  
23 is the special care that's needed is striking me as  
24 something worth consideration.

25 MS. KOSS: Michael, I just --

1 MR. AKKAOU: I think the clarification is  
2 that the discussion that we just had is very  
3 specific to white gold.

4 MS. KOSS: Mm-hmm.

5 MR. AKKAOU: It's not about rhodium, it's  
6 about white gold.

7 MS. MORTENSEN: Yeah.

8 MS. KOSS: Right.

9 MR. AKKAOU: It's not about -- it's about  
10 white gold and the fact that the common practice is  
11 to put rhodium over white gold and that once that  
12 wears through, you have exposure and you have  
13 tarnish and so on and so forth.

14 MS. FLAMM: Right. You are representing  
15 that you are selling white gold -- or rhodium  
16 plating, and I think rhodium is on platinum as well,  
17 to create a whiter product?

18 MS. AKKAOU: Over just about anything you  
19 want.

20 MS. KOSS: So is the --

21 MS. MORTENSEN: And when it wears off, it  
22 is not what you bought. It does not look --

23 MS. LAURA KIM: I understand. So just to  
24 clarify, the issue is that the rhodium plating is  
25 something that does wear off, it can be rather

1 inexpensively replated, and that it is not disclosed  
2 that the product is plated with rhodium. And that  
3 is certainly true with white gold products.

4 MR. AKKAOU: Right.

5 MS. LAURA KIM: Is that also true for  
6 other types of products that are plated with  
7 rhodium? So in other words, is there a sense that  
8 there should be a disclosure of the rhodium plating  
9 for white gold products, is that something that is  
10 necessary to prevent consumer deception in other --  
11 for other types of products that are typically  
12 plated with rhodium?

13 MR. AKKAOU: Only when it is marketed as  
14 something other than a rhodium-plated product.

15 MS. FLAMM: The way we -- our suggested  
16 language said rhodium-plating over a precious metal.  
17 Because it is used over platinum as well, for the  
18 same exact purpose, to create a whiter --

19 MS. LAURA KIM: I just wanted to clarify  
20 --

21 MR. AKKAOU: But when it is --

22 MS. FLAMM: It's over --

23 MS. LAURA KIM: Hold on, just one moment.  
24 Just one person at a time. I just wanted to  
25 clarify, because Michael said the issue was it

1 pertains just to white gold, but what I'm hearing is  
2 that it actually could pertain to other  
3 rhodium-plated products.

4 MR. AKKAOUI: I don't see that, frankly.  
5 You can put rhodium over silver, you know, you are  
6 marketing it as a white metal, it is silver. People  
7 have an expectation that silver is going to tarnish.  
8 It could be marketed as a rhodium-plated item. But  
9 in this particular case, because of the value of  
10 white gold and the fact that it is being marketed  
11 and sold as a white gold item, the consumer is  
12 unaware that there is rhodium there to begin with.  
13 And I think that's really the point.

14 All plating will wear. All plating will  
15 wear on anything, right? But in this particular  
16 case, it is because it is white gold, there's a  
17 perception that it is going to last, in and of  
18 itself, as white gold alone.

19 MS. KOSS: Right. I guess what makes it  
20 different is that it is a precious metal over a  
21 precious metal, but people don't understand that the  
22 first precious metal is there and that it is going  
23 to wear off.

24 MR. AKKAOUI: Yes.

25 MS. KOSS: So, we're out of time but I

1 wanted to once again thank all of our very  
2 distinguished panelists and our guests for coming.  
3 And I also wanted to urge you to continue to provide  
4 us your very valuable input as we continue with our  
5 Jewelry Guide review.

6 Thank you very much, safe travels, and  
7 have a great day. We really appreciate your being  
8 here.

9 (Whereupon, the conference  
10 concluded at 12:25 p.m.)  
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