

In the Matter of:

Jewelry Guides Regulatory

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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.
In the event of a fire or evacuation, please
leave the building in an orderly fashion. Once you're
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is across the street on New Jersey Avenue. People
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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

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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

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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
12 products with surface layer applications of precious
13 metals. We are planning to end today around 12:30,
14 if not sooner.
15 So with that, we'll turn to our first
16 panel focusing on marketing of certain types of
17 alloy jewelry products. Specifically, we want to
18 know what guidance would help sellers avoid consumer
19 deception when marketing alloy products that contain
20 precious metals in amounts below the minimum
21 thresholds set forth in the Guides.
22 As many of you are already aware, Section
23 23.4 of the Guides provides that it may be
24 misleading to use the word "gold" or any
25 abbreviation or quality mark implying gold content

7

1 to describe all or part of an industry product that
2 is composed throughout of an alloy of gold that is
3 less than 10 karats.
4 Similarly, Section 23.6 provides that it
5 is unfair or deceptive to mark, describe, or
6 otherwise represent that all or part of an industry
7 product is silver or to use a related abbreviation,
8 unless it is at least 925/1000 pure silver. Section
9 23.7 suggests a minimum of at least 500 parts per
10 thousand pure platinum for use of word "platinum" or
11 related abbreviation to mark or describe an industry
12 product.
13 Given these existing provisions, we want
14 to explore this morning how one should describe
15 products that contain precious metals, but in
16 amounts below those thresholds.
17 Before I begin with my first question, we
18 have a lot to cover, so I'm just going to do a very
19 quick introduction of our panelists for panel one.
20 To my left, we have Susan Kelly from QVC.
21 Seated next to her is Robert Herskovitz from MJJ
22 Brilliant Jewelers. We have Stuart Lee from
23 Sterling. Charles A. Wagner, III, from Jewelry
24 Television. Ewa Abrams from Tiffany and Company,
25 Lisa Brooks-Pike from Jewelers Ethics Association,

8

1 Ajit Menon from United Precious Metal Refining, Inc.
2 and Cecilia Gardner from the Jeweler's Vigilance
3 Committee, JVC. We really appreciate everyone being
4 here this morning.
5 So let's start, in particular, with an
6 issue that concerns whether there should be a
7 distinction made between marking something with a
8 quality stamp, for example 9 karat to indicate that
9 an alloy contains 9 karats of gold, as compared to
10 just using the word "gold" in descriptive marketing
11 materials like advertisements, tags, and labels.
12 In response to our recent notices, we
13 received a proposal from JVC that recommended
14 allowing sellers to indicate, in the descriptive
15 marketing materials, that a product contains a
16 precious metal, even when the amount falls below a
17 minimum threshold. But JVC's proposal did state
18 that sellers should not be allowed to stamp the name
19 of the precious metal on the product itself, such as
20 with a quality stamp or mark.
21 So the first question I present to our
22 panelists this morning is, what is the significance
23 of marking something with the quality stamp, such
24 that there should be a distinction made between a
25 quality stamp and information you provide in

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
21 understand better is why there is such a
22 significance in making that distinction between
23 something that gets stamp on the article itself as
24 opposed to what's included in the materials that
25 accompany the product. Ajit?

1 MR. MENON: Cecilia, do you want to --

2 MS. GARDNER: The only thing I wanted to
3 say is that, you know, our views were based -- what
4 we submitted to you was based on the consumer
5 perception data, the studies that we did which we've
6 submitted to you, which indicated that consumers
7 widely believe that jewelry that is stamped has a
8 higher value than jewelry that isn't stamped.

9 So the distinction here is that, because
10 these are below minimum standard alloys, that if you
11 stamp it with the karat quality or the precious
12 metal quantity, purity in the item, that they will
13 ascribe a characteristic value to it that it doesn't
14 actually have.

15 And again, we are trying to distinguish
16 these alloys from fine jewelry and precious metal
17 alloys that are above the minimum standards and this
18 is one way to distinguish it.

19 MR. MENON: It's a nice way to distinguish
20 the karat of the fine jewelry to the lower karats,
21 but right now there are many companies who just use
22 585 for 14 karat or 5833 or 416 or 750, so there is
23 no distinction right now. So we have to enforce
24 that the K stamping is only for 10 and higher and
25 the lower ones have to be the parts per thousand.

1 MS. GARDNER: Well, our position is in
2 percentages.

3 MR. MENON: Yeah, so right now it's not
4 really clear. Because I see a lot of jewelry with
5 7500 and, you know, it's fine jewelry. So we first
6 need to make sure that that distinction is made and
7 everybody follows that before stepping into the
8 percentage numbers. Otherwise there's confusion all
9 over the place.

10 MS. REENAH KIM: Just to clarify, Ajit,
11 the articles that you were just describing, where
12 they are stamped with 585, and that's to indicate
13 gold content?

14 MR. MENON: 14K, yeah.

15 MS. REENAH KIM: So instead of 14 --

16 MR. MENON: They are going to have to be
17 stamping 14K, according to what Cecilia is saying,
18 to be classified as fine jewelry.

19 MS. GARDNER: No, no, no. I'm sorry. I
20 just want to make the distinction. I'm not saying
21 that they shouldn't be able to stamp 585. 585 tells
22 them what the karat quality is, parts per thousand.
23 14K tells them what the karat quality is, it's a
24 weight disclosure.

25 What we are saying is, for these lower

1 minimum standard -- and I don't have any problem
2 with that being reserved for fine jewelry. And when
3 I say "I" what I mean is my group, the submission.
4 And if we could just agree that when I say I, that's
5 what I mean?

6 MS. REENAH KIM: Sure.

7 MS. GARDNER: This is the way I talk. I'm
8 not saying that we shouldn't permit alternatives,
9 585 and 14K for precious metals above the minimum
10 standard. What I am -- what our group is suggesting
11 is that below the minimum standards, because
12 consumers understand percentage disclosures very
13 well, it's common parlance, and our consumer
14 perception data proves this, that they get it, they
15 understand it, that this disclosure be made in a
16 percentage in order to distinguish it from fine
17 jewelry, which is already described in parts per
18 thousand or karat. This lower than minimum standard
19 alloy would be identified by percentages only.

20 And that would describe this other, you
21 know -- we have been calling this cake mix alloys or
22 alternative metals, but this is the category of
23 allow that we feel that this requirement should
24 apply to and only that category.

25 MS. REENAH KIM: Thank you. Stuart?

1 MR. LEE: If I may, I think you're hearing
2 what we know and that is that there are two
3 different ways of accounting for precious metals,
4 especially in gold. So you're probably aware of
5 that. If you go overseas, 585 or -- 750 parts per
6 thousand is used to describe 18 karat, 585 is 14.
7 You have the metric system being used -- you know,
8 people are using that. You know, you have
9 Fahrenheit, you have Celsius, so it's kind of the
10 same thing. They are somewhat interchangeable and,
11 to Amit's (sic) point, there are people who stamp it
12 750 or 585, but in the U.S. it has been
13 predominately in the consumer's mind, what they are
14 used to, is the karat. It's 10, 14, and 18 karat
15 that's being used. So you'll hear that back and
16 forth sometimes.

17 MS. REENAH KIM: And speaking to this sort
18 of translation between karats and percentage, one
19 question I have is to what extent would consumers
20 understand if, in a number of areas, they see gold
21 content being expressed as karats? To what extent
22 would they be able to comprehend that gold content
23 as expressed as a percentage? Would they
24 necessarily understand how that translates from
25 karats to percent? Susan?

1 MS. KELLY: Thank you. I think there's a
2 heritage and a volume of physical pieces that the
3 consumer is very familiar with, in terms of a K or
4 KT mark to mean gold. That's there.

5 But the parts per thousand that companies
6 that mark at times, or is used separately for
7 karatage of 583 and above for 14 karat and 750 for
8 18, is also very clear. There is no question in my
9 mind that the consumers understand that product.

10 When we lower the precious metal content
11 under what is already established in the FTC, we're
12 in a new world. And it's a world that we want to
13 embrace. I think for a distinction between the two,
14 the symbol and the word percentage is very clear.
15 In terms of written description, it would be very
16 clear. To add those types of symbols on the
17 physical product, I think might be very confusing.

18 However, to establish -- I would think we
19 are all thinking about establishing perhaps a brand
20 name that equates to certain percentages of alloys
21 of precious metals. And I'm thinking that it would
22 be great to have the option to define a brand, call
23 it, you know, "Happy Metal" with specific
24 percentages, descriptive information written about
25 the product and given to the customer prior to the

1 purchase, but have "Happy Metal" stamped on the
2 piece. I think there's a duty to our customer. I
3 think it's a benefit to the customer to have a mark,
4 but not necessarily a precious metal indication on
5 an item. For appraisers, for the future, for
6 inheritance, et cetera, to have some way of linking
7 a name to the content would be an advantage to the
8 customer.

9 MS. ABRAMS: Just to be clear, are you
10 proposing an industry-wide standard or brand for a
11 particular alloy?

12 MS. KELLY: Thank you for asking. No.

13 MS. ABRAMS: Okay.

14 MS. KELLY: It would be an individual
15 brand established by the manufacturer, retailer.

16 MR. LEE: So you're saying that if we had
17 "Happy Metal" for an example, I guess, that that
18 would be trademarked and somebody would be able to go
19 in 20 years from now, 30 years from now and be able
20 to see that that indeed had 33 percent gold, 25
21 percent silver, et cetera.

22 MS. KELLY: Perfect.

23 MS. REENAH KIM: But under that scenario,
24 does that mean that, given to dealing with some of
25 the sort of creativity of different manufacturers

1 and whatever alloy formulations they can come up
2 with, you could have a number of different
3 manufacturers tweaking their formulas, for lack of a
4 better word, and one would be called "Happy Metal."

5 You add 2 percent gold more and then it becomes --

6 MS. GARDNER: Really Happy Metal.

7 MS. REENAH KIM: -- Happier Metal. And
8 then for a consumer, if the only thing marked on the
9 actual, let's say, a bracelet itself is simply that
10 you look inside and it says "Happy Metal" you would
11 have to then go to some database to look up what the
12 formulation is. Because at that point, there's
13 nothing physically stamped on the product itself.
14 Whatever percentages were provided to the consumer
15 was given through whatever marketing materials were
16 provided at the time of sale. Is that how that
17 would go?

18 MS. KELLY: Mm-hmm.

19 MS. GARDNER: And we think this would, of
20 course, be accompanied by some education. Because
21 this is sort of, as Sue said, you know, a new world
22 for jewelry manufactures, in a sense. Because
23 although this product has always been out there and
24 available, you know, it's never really been
25 regulated, which is a problem. Because we do think

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
6 know that if it's -- the only thing that you see on
7 there is, you know, Happy Metal or Happier Metal,
8 this means that it's underneath the -- or it's
9 probably, more likely, to be underneath the minimum
10 standard requirements for precious metal.

11 Now right now, manufacturers can simply
12 stamp even precious metal items with the brand name
13 They don't have to put the parts per thousand or the
14 karat quantity on the piece. If they do, then they
15 must also put their registered trademark on there,
16 but they could just put the registered trademark
17 with nothing else.

18 So this is going to -- there is a certain
19 amount of consumer education that's going to have to
20 be rolled out in connection with these new products.

21 MS. REENAH KIM: Ewa, actually I would
22 like to ask you, in particular, about the experience
23 that Tiffany had recently in marketing it's -- is it
24 Rubedo?

25 MS. ABRAMS: Rubedo, yes. Rubedo was a

1 mixed metal alloy that contains elements of gold and
2 silver but below the precious thresholds. So it was
3 quite a challenge in marketing this metal. We
4 didn't really have a challenge internally in
5 stamping the metal. We understood it was well below
6 the precious metal thresholds and we marked it -- we
7 simply stamped it as metal with our trademark on it.

8 But in terms of advertising, we found it
9 difficult to convey the value of this new alloy
10 without disclosing that gold and silver properties,
11 elements, not precious metals, but elements were
12 included in a fairly material quantities.

13 So we find that it is important to be able
14 to make these disclosures and I really agree with
15 Cecilia and JVC's proposition that that be allowed
16 in advertising materials and particularly perhaps to
17 describe the content through a percentage, but to
18 avoid stamping gold and silver and other precious
19 metals on the items themselves.

20 I think that it might be a little bit
21 confusing to mix issues. Trademark issues, stamping
22 issues, and patent issues related to the components
23 of the metals in this issue. And I think rather it
24 would be simpler to create sort of an industry
25 standard for these types of products to avoid

1 confusion among consumers and also among
2 manufacturers.

3 So perhaps there would be interest in
4 using a word such as alloy to describe, you know,
5 all mixed metal compositions. And then require, as
6 Cecilia suggested, that percentages be disclosed
7 voluntarily or be a requirement in advertising
8 materials. But then again, avoid any particular
9 stamping that could confuse consumers as to
10 precious metal content on the items themselves.

11 MS. REENAH KIM: Charles.

12 MR. WAGNER: I think we all have a general
13 recognition that, in the past ten years,
14 circumstances have changed dramatically as a result
15 of the escalation of the price of gold. So I
16 understand, and I think we all understand, that it's
17 a new world. And there is a need to be able to
18 describe, as gold product, something below 10 karat.
19 There seems to be a general recognition of that and
20 that doesn't need to be addressed further.

21 I think there is, in our opinion, the
22 threshold standard of 10 karat, as I hear people
23 talking today, there is certainly a general
24 consensus that that threshold should remain in place
25 and stamping should not be allowed below that.

1 We have suggested, right or wrong, that
2 the consumer is intelligent. That stamping, the
3 consumer understands the karat terminology. They
4 understand that 24 karat is pure gold and, as you go
5 down from that, there is a lesser amount of gold
6 included. We don't see any reason to adjust those
7 standards. We think the consumer understands that.
8 We've conducted no consumer research, but we deal
9 with our customers every day and we feel that they
10 understand that.

11 We prefer the karat standard and the karat
12 terminology. We do think that the consumer
13 understands karat. And if it's marked on the
14 product itself, there is no confusion because at
15 that point, they know what it is. Having said that,
16 we are less concerned with whether it is marked on
17 the product or on the marketing materials than we
18 are at being able to describe an alloy product
19 with less than 10 karat as gold, so long as we
20 identify what the content of the gold is.

21 Now again, we think the purpose of this is
22 consumer knowledge, make sure that there is no
23 confusion, and that's our feeling about it.

24 MS. REENAH KIM: A couple of points that I
25 do want to follow-up on and then I'll get to Lisa.

1 Jumping back to Ewa's point, you mentioned that
2 there might be, for example, just an understanding
3 in the industry, whether it's a standard or a
4 practice, that suggests that an alloy, or using the
5 term alloy, or just having that be almost a
6 substitute, I just want to make sure that I'm not
7 misunderstanding your position, for those products
8 that fall below the thresholds?

9 MS. ABRAMS: Using a term such as mixed
10 metal or alloy to avoid a situation where an
11 unscrupulous seller could be marketing a piece of
12 costume jewelry or a mixed metal piece, an alloy,
13 and simply highlighting that there's gold content in
14 it. In order to avoid, you know, basically the
15 premises of the Jewelry Guides themselves and trying
16 to pawn off their piece as a precious metal item.

17 So we want to avoid a situation where only
18 one element is highlighted, such as gold or silver,
19 instead of being able to, in an honest,
20 non-deceptive way, describing what an alloy is made
21 of.

22 MS. REENAH KIM: And just so I understand
23 sort of the science behind it, and Ajit you may be
24 able to help me with this, my understanding is that
25 even if it is a 10 karat gold, let's say, 10 karat

1 gold product that does meet the minimum thresholds,
2 what I understand technically that is an alloy,
3 because it's 10 parts gold --

4 MR. MENON: You're right.

5 MS. REENAH KIM: -- and the remaining
6 parts could be any other metal. So technically
7 anything that's above that threshold is also an
8 alloy, is that correct?

9 MR. MENON: Yes, you're right.

10 MS. LAURA KIM: Given that there seems to
11 be a lot of consensus that consumers understand gold
12 expressed in karats, if you move away from that and
13 for these mixed metal products you are relying on
14 percentage, is there any risk of consumer confusion
15 there because they are so used to the karat
16 description?

17 MS. GARDNER: Laura, can I just intervene
18 here for a moment and just say that, you know, we
19 studied this issue with consumers. We did a
20 consumer perception study on whether or not
21 consumers understand karat. And Charlie, with all
22 due respect, you have very sophisticated consumers
23 who go to JTV for jewelry. These are already
24 self-selected as jewelry enthusiasts, so maybe they
25 understand at a level that others don't.

1 But what our research shows is that a
2 large percentage of the consuming public is very
3 confused about the karat designation. And that's
4 just a fact. Now, does that mean that most people
5 do understand it? I mean, yeah. I think most
6 people do. A large percentage do not. And enough
7 to concern us.

8 MS. REENAH KIM: And following up on that
9 point, Cecilia, we did, you know, we are aware of
10 consumer data that we did see submitted with the
11 comments that does suggest many consumers do not
12 fully understand the definition of karat when it's
13 used to describe gold. You have a percentage
14 recognizing that karats is typically associated with
15 an indication of gold content, but there were a
16 significant percentage of respondents, for example,
17 with the Google insight research that we recently
18 got, and I think something like only 37.5 percent of
19 respondents were able to correctly identify the
20 purity of gold as being the correct definition of a
21 karat.

22 What I also found significant was that, in
23 that data, 28.1% thought that 14 karat referred to
24 14 percent gold and 16 percent of the respondent's
25 thought that 14 karat indicated 100 percent gold.

1 And that raises the question, if you're
2 just looking at the karat universe alone, and there
3 seems to be some consumer confusion about what the
4 karat means, if you're introducing now almost sort
5 of a parallel universe when you get above those
6 thresholds, where you are then switching over --
7 excuse me, below the thresholds, if you are
8 switching over to a percent, there are real concerns
9 that a consumer, when confronted with, you know, a
10 piece of information that says 20 percent gold and
11 something else that says 18 karat gold, I have
12 concerns and questions about whether a consumer
13 would really be able to understand the differences
14 and be able to really make an informed decision in
15 comparing what is better quality or which has more
16 value, 20 percent gold or something that says 18
17 karat gold. I'd like to hear from folks. Susan?

18 MS. KELLY: I wanted to just make mention,
19 or get to that point, I believe I understood a
20 comment earlier, for instance, that if we have 30
21 percent gold, 10 percent silver, and the remainder
22 as an alloy, that that also would not be incorrect.
23 So that in terms of disclosing to the customer that
24 you have precious metal, precious metal plus
25 additional metals or plus 60 percent alloy, would

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
24 there a risk that then consumers will assume or may
25 assume that there is more than there in fact is.

1 And one issue that became apparent to me,
2 at least, is that when you have, as the technology
3 becomes more sophisticated, you are seeing in the
4 market place alloy products that, by appearance, may
5 look every bit as shiny and gold-like as something
6 that is, perhaps, 14 karat gold. And if there is
7 not a disclosure of exactly how much is in there, if
8 a consumer looking at the appearance, and if they
9 really like the way it looks and they see the price
10 and it seems about right, and if they look at the
11 description and it says this is a mixed metal alloy
12 including gold, silver, and base metals, the point
13 that it is actually below the thresholds might
14 escape them. But I would like to hear from others
15 on that, Stuart?

16 MR. LEE: Yes, two things. One, on the
17 karatage and confusion, it is always important to
18 remember that a fine jewelry purchases is one that
19 is made on a much more seldom basis. Our best
20 customers buy every two years. Many customers, it's
21 a purchase they may make once-in-a-lifetime or once
22 every decade. So while they may have understood
23 what 14 karat was nine years ago, our job is, when
24 they come back in, is to always take them through
25 that complete disclosure. And it's a very simple

1 way of explaining 14 karat gold. I think most
2 people get it within 10 or 15 seconds or it will
3 come back to them and they go oh yeah, right. I've
4 got it.

5 Now, I think it's very dangerous when we
6 start to get below the thresholds that we don't have
7 complete disclosure to the consumer about what's in
8 that metal. And I'll give you an example, and it's
9 no one in this room, we were approached by a
10 manufacturer several years ago that said we've got a
11 proprietary metal, we'd like you to sell it in your
12 stores. And we said, well, tell us about it and
13 they said it's a wonderful mixture of platinum, of
14 palladium, of silver, and of gold. And I said,
15 well, that sounds wonderful. What's the secret
16 mixture? Well, we really don't want to -- it's a
17 secret mixture and that's why it's proprietary.

18 We did our due-diligence on it and we
19 found out that it had less than 2 percent platinum,
20 less than 2 percent gold, and in fact the vast
21 majority of the product was silver. And yet in the
22 marketing and the way that it is shown, you would
23 believe, as a consumer, when you see this beautiful
24 melding of four precious metals, and the name of it,
25 which I won't get into, led you to believe that it

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

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.

6 If you go below that, and again the
7 assumption being that below that kind of karat
8 quality, the distinctive attributes of a piece of
9 jewelry change, I mean, that's a decision that was
10 made long ago, then we need a methodology to tell
11 consumers why these two things are different.

12 And I understand your concern about
13 percentage versus karats. Here's another thing
14 they're going to learn when they decide which one
15 they are going to buy. The 18 karat one costs a lot
16 more. And they're going to wonder why. And that's
17 a simple question to answer, across the counter.
18 Because there's a whole lot more precious metal in
19 this thing and a conversation ensues about what
20 karatage means, for those consumers that don't
21 understand it.

22 So the thing sort of speaks for itself,
23 because if you've got 30 percent gold in something,
24 that's going to cost a whole lot less than something
25 that's 18 karat gold.

1 The one thing I'm worried about, of
2 course, as you might be, is that you have this 30
3 percent attribute. What would stop this marketer
4 from deceiving consumers saying wow there's 30
5 percent gold in here, you know? You have to pay
6 the same as this 18 karat. There's -- you
7 know, we see the underbelly of the jewelry industry,
8 sadly, all the time at the JVC because we take
9 complaints and we do investigations and we monitor
10 the industry.

11 My feeling is that the consuming public
12 will correct that. Because the bad guys will be
13 found out, if they are going to deceive consumers in
14 this way, and they will be so -- it will be so
15 obvious to all that these 30 percent products are
16 just not performing the same way as the 18 karat
17 products are performing. And the price disparities,
18 if the prices are being charged in a manner that is
19 so deceitful that, you know, we are going to hear
20 about it. JVC is going to hear about it and you're
21 going to hear about, at the FTC.

22 So there has to be -- in my mind, the way
23 to protect consumers the best is to distinguish
24 these two universes, 10 karat and above, 10 karat
25 and below. You know, 9.97 and below -- sorry, parts

1 per thousand, and help that distinction to be rolled
2 out by using different disclosures for each, so
3 that the consumers are fully aware that this has
4 less gold in it than that.

5 MS. REENAH KIM: And just to circle back
6 to one point, and I think you're probably on the
7 same page on this, but I do have concern about
8 thinking that the price alone, not the price
9 alone --

10 MS. GARDNER: No.

11 MS. REENAH KIM: -- but that the price may
12 be an adequate or significant indicator of value.
13 Because I think what we often hear, and I'm sure a
14 lot of folks in this room hear the same thing, you
15 know, there will be marketers who charge a higher
16 price for something because at least for the 5, 10,
17 30 minutes that a consumer is in the store, they
18 are examining the piece, it looks just like
19 something that has more precious metal content. And
20 for many consumers, and I'd like to hear from
21 panelists on this, particularly in how they interact
22 with consumers, if consumers look at that and they
23 say, well, it looks like gold. There is some
24 description, whether it's 33 percent gold or
25 contains gold and other precious metal alloys or it

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.

20 I actually -- and Robert, I want to pose a
21 question to you in particular --

22 MR. HERSKOVITS: Sure.

23 MS. REENAH KIM: -- about to what extent
24 there may be disclosures or information provided,
25 whether in descriptive marketing materials or the

1 way you are rolling out a product, where you're able
2 to convey to consumers exactly what it is that they
3 are getting when you do have a product that is below
4 10 karat gold, for example. But in a lot of
5 respects, it looks -- you know, it's a great piece
6 of jewelry and for consumers who maybe aren't able
7 to afford the product, you know, products on the
8 higher end, maybe this is all they can afford and
9 they want to be able to get that type of jewelry.
10 I'd like to hear your thoughts on how that type of
11 information can be conveyed to the consumer.

12 MR. HERSKOVITS: Well, you know, MJJ
13 Brilliant has a mixture of three precious metals,
14 one being the higher content of gold, 25 percent, 21
15 percent silver, and 2 percent palladium, just mixed
16 into a naturally yellow color. And from MJJs
17 standpoint, the way we've taken our approach is that
18 we want to make sure that the consumer is informed
19 as much as possible.

20 So we sent, you know, all the metals to an
21 assay lab in Birmingham. We did all of our due
22 diligence, in terms of, you know, checking all of
23 the hardness versus 10 karat and really researching,
24 you know, the metal that we are using within the
25 marketplace and then conveying that back to the

1 retailer, because we understand that that is not the
2 only products that are being marketed in that
3 showcase. There is going to be other gold products,
4 so we need to, you know, really take an approach to
5 differentiate what that gold product is.

6 We also made an instructional video to
7 basically explain to the consumer what Yellora is,
8 the name of the product of that metal is Yellora,
9 and we wanted to, you know, be able to present what
10 the content, what the precious metal contents are,
11 so we wanted to disclose what the proprietary
12 contents are for full disclosure, so that the
13 consumer can make an educated decision whether or
14 not that's something that, you know, works for them.

15 We also created some marketing material
16 for the consumer -- for the sales associate on the
17 store level, in multiple languages, so that when the
18 consumer comes in, they can have like a little item
19 sheet so that they didn't misrepresent the product.
20 They can explain it very carefully in detail and
21 show the consumer what that product is and what the
22 precious metal content is.

23 We also put a hangtag on the merchandise
24 to kind of differentiate it from other products
25 within that showcase space. So the consumer may

1 come in and see something, for example, of the
2 yellow precious metal, which is Yellora, that's the
3 name of our precious metal, and then they would have
4 a 10 or 14 karat gold maybe sitting in the next
5 showcase so that they can have some sort of a
6 differentiation to be able to know that, okay,
7 that's precious metals, three precious metals, and
8 what the Yellora really is and then what the
9 differences between gold are and then they can make
10 that educated decision from there.

11 So we believe that as much marketing
12 material as you can, when you come out with a brand
13 to furnish to the consumer is key to the whole
14 program. Giving information, we have an information
15 website set up that any consumer can come and they
16 can be able to understand what Yellora is, with a
17 video. They can, you know, do that click down.

18 So it's full disclosure to the customer.
19 That's what we are really, you know, trying to
20 accomplish.

21 MS. REENAH KIM: Stuart?

22 MR. LEE: From a retailer perspective,
23 first, I agree with Robert. They obviously took the
24 high road. They are a manufacturer, however. It is
25 incumbent upon the retailer at that point to take

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 possible way, whether that's on E-commerce, across
2 the counter marketing, or advertising.

3 MS. REENAH KIM: Ewa.

4 MS. ABRAMS: I totally agree with that
5 sentiment. I think that we are all sort of coming
6 from a place where we are looking for a better
7 disclosure for consumers and for ourselves, you
8 know, as an industry, to be in a better position.

9 But presently we are not in a position to
10 disclose without running afoul of the Guides.

11 MR. LEE: Well said.

12 MS. ABRAMS: And so that's where we are in
13 this, you know, strange place.

14 MS. GARDNER: That's the change that we
15 have to make.

16 MS. ABRAMS: We can't communicate this
17 distinction in value.

18 And just to get back to the issue of value
19 and cost, I think we have to be very careful about
20 assuming that cost will regulate this issue.

21 MS. GARDNER: Oh no, not alone. Certainly
22 not alone. I didn't mean to say that that alone
23 will do it.

24 MS. ABRAMS: No. We need to recognize
25 that design, R&D and brand --

1 MS. GARDNER: Yes, absolutely.

2 MS. ABRAMS: -- will go a long way into
3 determining what the final retail.

4 MS. GARDNER: Absolutely.

5 MR. LEE: And we have to say Tiffany did,
6 as far as I'm concerned, a very admirable job with
7 how they show their product and market it. But
8 you're exactly right, we're in a different world
9 here. And we share your angst a little, if I may be
10 transparent, about the 750, the 585 against the 14
11 karat. Believe me, there has been plenty of
12 discussions for any of us that have been in the
13 industry for any period of time. And yes, if you
14 waved your magic wand and went back 100 years, we
15 would all like it to be the same worldwide. So you
16 got very quickly to where we were. Karatage,
17 percentages, at best the customer will always be
18 somewhat confused because they just don't do it
19 often enough. And then it is our job, as the
20 retailer, to get that across to them in a very
21 simple manner.

22 MS. REENAH KIM: If we could get into the
23 weeds a little bit about exactly if we were to
24 formulate what type of disclosure would really be
25 both adequate and, you know, help the consumer to

1 understand what exactly it is that they're getting
2 and what they could reasonably expect from this
3 product, and also taking into account from the
4 manufacturer and the retailer's perspective what is
5 practical and able to be actually carried out, one
6 question I have is if you are looking at these below
7 threshold products, when you're providing -- let's
8 just say, if you were doing percentages, should
9 there be a full accounting of all components such
10 that a consumer looking at it can say, okay, they
11 can add up the percentages so that it actually does
12 equal 100%? Would that help in any way in clearing
13 up any confusion?

14 And sort of my second point of this, you
15 know, a number of these products would contain not
16 only -- it won't just be gold plus some other
17 metals. It might be gold plus silver plus some
18 other metals or it might even have gold, silver,
19 platinum, and other base metals. And the question
20 becomes, you know, each of those three precious
21 metals now are being expressed in different ways.
22 And if we convert all of them over to percentages,
23 there are concerns that the consumer, who is used to
24 seeing 925 for silver and parts per thousand for
25 platinum, karats for gold, will all of the sudden

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
5 what types of disclosures, what information really
6 would be effective in informing and educating the
7 consumer those points. Ajit?

8 MR. MENON: Practically, we've got to make
9 sure that, if you want to write a whole sentence on
10 jewelry, it is really not possible, okay? It is
11 literally not possible -- and five other metals and
12 how would you add it all to 100 and show a complete
13 disclosure? The customer is only interested in the
14 precious metals.

15 MR. HERSKOVITS: The intrinsic -- yeah, in
16 the intrinsic value.

17 MR. MENON: That said -- they don't know
18 iridium is or indium is or boron is or whatever else
19 it is. Practically, the three marking systems like
20 925, 10K, 14K, or 18K, all three numbers, that is
21 easy and can be done. But the moment you change
22 them into multiple numbers, even with the decimal
23 point, what's the difference between a 1 karat and a
24 10 karat? It's 4170 and 417. So how would you put
25 that? If you put 417, the consumer will get

1 confused. Is it 10 or is it 1?

2 So again, if you want to put a decimal
3 point for the lower karats, then it has to be
4 defined. It has to be a four digit number, 0417 or
5 4170 to make sure there's no confusion there. So
6 those have to be addressed, when you're putting the
7 decimal point.

8 MS. REENAH KIM: Cecilia.

9 MS. GARDNER: You know, it's interesting,
10 because in our task force and in our working groups,
11 we have long conversations about exactly this
12 subject. And you know, we landed at using the
13 percentage disclosure based on the very -- you know,
14 the difficulties that we were facing here. Because
15 we understood that there were many ways to disclose
16 this across the metals.

17 And what we came to, after long
18 discussions on this subject, was that we need to do
19 it by percentages because, number one, consumers
20 understand it very well. Ajit is completely right,
21 really what they only want to know is how much
22 precious metal is in this. How much gold, how much
23 silver, how much platinum, how much palladium. And
24 we think that's the information they must get.

25 Now if a particular marketer wants to go

1 the nine or ten yards and do the whole formula, we
2 think that's great. But we do want to make it
3 imperative that they at least describe the amount of
4 precious metal and do it in a manner that is
5 applicable across the board, just to address this
6 complicated methodology of using parts per thousand
7 for one precious metal and a K for another type of
8 precious metal.

9 So if we stick to the percentages and make
10 it required that they disclose the amount of
11 precious metal, which is what we understand
12 consumers really want to know, then I think we've
13 met our obligation to avoid consumer deception and
14 we've met consumer expectations as what they
15 actually want to know about the piece.

16 MS. REENAH KIM: One concern I have is
17 that if you -- and I can understand why both the
18 amount of precious metal is very relevant to
19 consumers, it's what they care about. My concern is
20 that if marketers, when you get to this
21 below-standard universe, if they are advised to
22 disclose the amount of precious metal content as a
23 percentage, but they are not necessarily required to
24 include all of the other components, particularly
25 because this is a very new system, a new way of

1 expressing and conveying what that precious metal
2 content is, a consumer might see alloy contains 33
3 percent gold and just not realize that that means
4 all the rest is something very different, different
5 metals. To Lisa's point, if it contains nickel or
6 some other metal that they may either have an
7 allergy to just that they simply -- it changes their
8 perception. Again, to my example, what's the
9 difference between seeing a description that says 33
10 percent --

11 MR. MENON: But that's true with the --

12 MR. HERSKOVITS: Right. 14 karat is --

13 MS. REENAH KIM: -- gold or 33 plus the
14 others --

15 MR. HERSKOVITS: What's the --

16 MR. LEE: It's the world we're in. And I
17 think I was fortunate enough to work in the stores
18 for many years, as well as we talked to the store-
19 level people, and in all the years I sold, I can
20 count on one hand the number of people that were
21 interested in what was the rest of the metal. If
22 it's 14, if it's 585, then what's the rest.

23 To Lisa's point earlier, nickel was an
24 issue -- you know, many of us today, all of our
25 manufactures that we work with, are nickel-free. So

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 alloy 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
7 --

8 MS. GARDNER: I want to just clarify, our
9 suggestion is, whenever there is a precious metal,
10 the percentage of the total should be disclosed. So
11 if it is gold and silver, you have to disclose the
12 percentage of gold and the percentage of silver.

13 And I can speak to the platinum issue,
14 because we were very involved with it some years
15 ago.

16 MS. ABRAMS: But what if the product
17 contains only gold, that's the only precious metal
18 that it contains?

19 MS. GARDNER: Then it would be 30 percent
20 gold.

21 MS. ABRAMS: Then you're still --

22 MS. GARDNER: Then you're done.

23 MS. ABRAMS: You're still recommending
24 that the percentage be disclosed, rather than --

25 MS. GARDNER: Right.

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
 7 those three concerns in the best possible way. It's
 8 not perfect, nothing is perfect, but at least it
 9 addresses those concerns.
 10 MS. REENAH KIM: In your experience, and
 11 again, it is particularly helpful to hear from the
 12 retailers, have the disclosures been beneficial for
 13 alleviating any confusion by consumers or enhancing
 14 a consumer's understanding of what it is they are
 15 buying when they're dealing with these particular
 16 types of platinum products?
 17 MR. LEE: I can speak to it because we
 18 have carried them. It's helpful and, in fact, with
 19 the stamping, if memory serves, it was 585/CO/CU, I
 20 believe, which was cobalt and copper, if my memory
 21 serves. We put that out, and we stamped it, and we
 22 even went as far as to put information out in the
 23 store right with the product that explained it to
 24 them.
 25 Again, what we found is the important part

1 that they were concerned with, the consumer was, was
 2 how much platinum was in it. They really didn't
 3 care about the cobalt or the copper or anything
 4 else. It was, okay, explain to me why this is less
 5 than 900 or 950.
 6 So I know the guidelines went there, but
 7 what we found with the consumers is, thank you, but
 8 it's really fine. I get it. It's got less platinum
 9 in it than the regular, traditional platinum.
 10 MS. REENAH KIM: So sort of a two-part
 11 question here. If there is a difference in the
 12 quality of the product that contains less than 10
 13 karat gold, for example, whether that's with respect
 14 to attributes like tarnishability, corrosion, you
 15 know, other things that are important to consumers
 16 and whether, if you have below 10 karat gold, that
 17 makes a difference in how that product will appear
 18 and continue to appear over time.
 19 And two, whether the fact that it is below
 20 10 karats changes that product's ability to deliver
 21 those qualities that are important to consumers.
 22 What types of disclosures or what sort of
 23 disclaimers could and should be provided to
 24 consumers to signal to them and flag to them, you
 25 know, besides the fact that this is 9 karat gold, it

1 may not look the same and it may not perform in the
2 same way as a 10 or 14 karat gold ring two, three,
3 four years down the line. Lisa.

4 MS. BROOKS-PIKE: I actually will speak to
5 that, only because I had the opportunity to see the
6 Birmingham assay on the Yellora. And I think the
7 assumption is being made here that if it's not 10
8 karat or better, that the performance will be less.
9 Huge mistake. Because in the case of the Yellora,
10 it performed better than 14.

11 MS. REENAH KIM: And in what respects?

12 MS. BROOKS-PIKE: You had a tarnish and a
13 corrosion.

14 MR. HERSKOVITS: Well, we did a tarnish
15 test against 10 karat and 14 karat. We did a
16 hardness test. We did multiple sweat tests. We did
17 a durability test, in terms of, you know, 10 karat
18 has, for example, 120 on the Vickers scale and
19 Yellora was 128.

20 So we did all the testing to understand
21 what the metal is. We wanted to make sure that it
22 is a nickel-free alloy and we provided -- we have
23 all of those reports ready to provide to the
24 retailer so that they have that for documentation,
25 backed up with all of the marketing material that

1 kind of speaks to all of that material that it is
2 cadmium-free and lead-free, et cetera, et cetera.

3 MS. REENAH KIM: What is a sweat test? I
4 think I heard you --

5 MR. HERSKOVITS: A sweat test is if you go
6 into a chlorinated -- if you go into a swimming
7 pool, will it, you know, will it turn or what would
8 happen to it. Or in the event that you were to take
9 it in the shower or swim, all the things that
10 consumers want to know. You know, how do I take
11 care of this? So we also provided care instructions
12 on how to take care of the jewelry to the retailer.
13 And you know, to Stuart's point, that would be the
14 retailer's position to be able to now educate the
15 consumer on that level.

16 MS. REENAH KIM: Ewa.

17 MS. ABRAMS: I would echo the same exact
18 sentiments. Because it is my understanding, based
19 on reviewing the components of our alloy, that it is
20 not just the precious metal content that goes into
21 anti-tarnishment properties, but some of the other
22 base metals are, in fact, even more important. And
23 tweaking those --

24 MR. HERSKOVITS: Right.

25 MR. ABRAMS: -- one way or the other

1 really affect those properties. So I don't think
2 that that is a, you know, serious issue, given that
3 all of the properties of the alloy should be taken
4 into consideration.

5 MS. KELLY: In terms of -- oh, sorry.

6 MS. REENAH KIM: Susan.

7 MS. KELLY: In terms of full disclosure, I
8 do believe strongly that not only the content, but
9 the care instructions are important.

10 MR. HERSKOVITS: Absolutely.

11 MS. KELLY: Yeah. And it is the case that
12 certainly the lower precious metal content alloys
13 are extraordinary. And I think we are going to
14 really see a great area of growth, I hope, there.

15 But again, there is the distinction of
16 what is considered the heritage and the legacy of
17 the jewelry industry with marks within a metal
18 object and non-precious content marks. So to me,
19 that's a great distinction when a customer is either
20 electronically purchasing or over-the-counter.

21 The lack of a karat mark or parts per
22 thousand mark or percentage mark will prompt a
23 question. And I know that many retailers actually
24 create an image of the mark. So marks represent
25 over the minimum thresholds, okay?

1 MS. REENAH KIM: Cecilia.

2 MS. GARDNER: I'm going to echo what Sue
3 said. When this was under discussion in our various
4 working groups, as to whether or not we wanted to
5 take the position to maintain the 10 karat minimum
6 standard for fine gold, you know, we were all aware
7 of the fine performance of these below-threshold,
8 below minimal threshold alloys. And that the
9 concerns that may have pertained back in 1996, when
10 this was maintained then, may not exist now.
11 Because back in 1996, I think they were considered,
12 considering the potential degradation of the alloy
13 below 10K. Now it is clear to us that there aren't
14 those issues.

15 Instead, there are issues of longtime
16 tradition and consumer perceptions as to what fine
17 jewelry is. Now I would agree with Lisa that sort
18 of depends on the pocketbook, but our industry is
19 very concerned with image and with expectations,
20 consumer expectations for the product. And it was
21 the consensus of the group, based on today's
22 expectations and based on the history and the
23 heritage of the industry, to maintain that 10 karat
24 minimum standard for disclosures of gold. And there
25 was a uniform, you know, consensus on that issue.

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
16 alloys that contain more than one precious metal,
17 gold and silver.

18 So you know initially, I asked the
19 question of whether or not this would apply to an
20 alloy that contained, say 20 percent or to the
21 gentleman's point, 3 percent gold but the rest all,
22 you know, base metals and no other precious metals.
23 Should the standard apply to a piece like that,
24 that's more akin to costume jewelry that might have
25 these, you know, properties that perform poorly or

1 may be dangerous, for example. So maybe we should
2 apply this standard to alloys that contain more than
3 one precious element.

4 MS. REENAH KIM: Is there evidence that
5 when you have more than one precious metal in one of
6 these alloy products, it performs differently than
7 if it simply has one? So for example, is there a
8 difference between something that contains 3 percent
9 gold and 97 percent base metals versus 2 percent
10 gold, 1 percent silver, 97 percent base metals?

11 MS. ABRAMS: I think, and I'm not a
12 metallurgist, but I definitely think that in that
13 scenario, there might not be a difference. I think
14 it's the percentage of -- so maybe there's a
15 material threshold, a percentage, that might be
16 important to look at. But again I'm no expert, I'm
17 not a metallurgist.

18 MS. REENAH KIM: We've got a gentleman in
19 the middle row here.

20 MR. HERSKOVITS: Yes. I'm here for a
21 reason, I'm not going to bore everyone, but I'm an
22 unsophisticated industry. I don't know this
23 industry, so just listening to the various comments
24 I can tell you that, if you want to confuse me, set
25 up two standards. One for 10 karat and above and an

1 entirely different standard for below 10 karats. If
2 you don't want me to be confused, tell me the
3 standard product is 10 karats, it's 1 karat, it's
4 0.5 karats, I will know the content of the precious
5 metal and make my decision.

6 As far as the non-precious metal
7 components, that's where the -- the brand name,
8 perhaps. If you use different brand names, and they
9 gain a certain recognition, that's how the consumer
10 will decide whether to buy that product or not.
11 Just using a brand name for anything below 10
12 karats, that won't really communicate anything to
13 me.

14 And Ms. Brooks-Pike mentioned earlier
15 about the metric system. It's been tried back in
16 the Carter administration, across many other fields
17 and, for whatever reason, the American public will
18 not accept it. And so I don't -- as rational as it
19 sounds, I don't think it will work.

20 MS. REENAH KIM: Thank you, sir. And just
21 for the record, could you please state your name?

22 MR. HERSKOVITS: Yes, I'm Abe Herskovits.
23 I am related to Robert.

24 MS. REENAH KIM: Thank you. We have a
25 woman in the front row with a comment.

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 operating concepts, in drafting statutory
 2 requirements, that you don't draft to the bad guy.
 3 You know, you don't draft to the deceivers. What
 4 you do is, you create standards and then enforce
 5 them. So in other words, you shouldn't draft
 6 statutes, regulations, Guides, based on a
 7 methodology to address noncompliance. What you do
 8 is, you set standards and then you enforce those
 9 standards by ensuring that, when they are violated,
 10 you correct the violations or you enforce against
 11 them.

12 So what we are seeking here is a standard
 13 for the industry as a whole to understand and
 14 implement. And then it will be your task, our task
 15 as the JVC, to look and monitor industry conduct,
 16 educate people, and help them into compliance with
 17 the standards that the FTC sets.

18 And I'm anxious for you to understand, as
 19 you probably already do, how important these Guides
 20 are to our industry. You see how they are used on a
 21 daily basis. And it's really important to us that
 22 they set standards that we can understand, that we
 23 can implement, both as manufacturers and as
 24 retailers, as marketers, and that we can enforce and
 25 educate people about to come into a general sense of

1 compliance in order to maintain the integrity of the
 2 industry and to ensure that its reputation is
 3 maintained over time.

4 MS. REENAH KIM: Thank you. We do have
 5 one more comment. Ms. Merino.

6 MS. MERINO: Dee Merino, with TSI
 7 Accessory Group. I have two comments. One is
 8 related to the marks itself. I don't believe the
 9 consumer understands the percentage of 14 karat. We
 10 deal in sterling silver. Our consumers -- we're
 11 dealing with manufacturers and retailers. Our
 12 consumers understand that it is stamped 925. Most
 13 of them, and even our own employees who work in
 14 sterling in the company, didn't understand that that
 15 means it is 92.5 percent silver. They know to look,
 16 is it marked and it has a 925 stamp on it? That
 17 means something, but they did not understand the
 18 concept of what it was, the content of that metal.

19 So I feel like just the education of the
 20 stamp is the fact that there is a stamp is what is
 21 important, in the delineation between keeping a
 22 stamp and non-stamping. It is important for the
 23 consumer.

24 And the other thing is in regard to your
 25 nutritional list. I kind of am thinking of more the

1 practical nature of how is that going to be actually
 2 implemented. Because the majority of our
 3 manufacturers will not share the composition of
 4 their alloys.

5 MS. GARDNER: Right.

6 MS. MERINO: I mean, whether it's trade
 7 secrets or whatever, they're not going to want to
 8 disclose to me, as a wholesaler, as to what is in
 9 that other 7.5 percent. So to be able to say that I
 10 am now going to provide that to a retailer and disclose
 11 it on paper or marketing material is going to be
 12 almost impossible.

13 MS. REENAH KIM: Thank you. I appreciate
 14 everyone's time. We had a lot of good ideas here.
 15 We really appreciate everyone's input.

16 We do want to break a bit for about 15
 17 minutes and then reconvene for the second panel
 18 around 10:45. Thank you.

19 (Whereupon, a brief recess was
 20 taken.)
 21
 22
 23
 24
 25

PANEL TWO

1
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
18 significant surfaces of the product or part contain
19 a plating or a coating that is of substantial
20 thickness.

21 In addition, 23.4© of the Guides contain
22 numerous examples that reflect very specific minimum
23 thicknesses and weights for certain terms that are
24 used to describe surface plated products. They
25 mostly -- as we know, they center on gold or gold

1 alloy.
2 So when the Commission issued these
3 provisions in the Guides, it stated specifically
4 that consumers are, in fact, unlikely to distinguish
5 between products on the basis of a method of
6 plating, that they are not concerned specifically on
7 whether it is an electrolytic application or a
8 mechanical application, but that they are, in fact,
9 concerned with durability.

10 And we learned from JVCs group, their task
11 force's recent comment, that consumers don't
12 understand many of these traditional industry terms.
13 They likely don't understand the difference between
14 rolled gold plate or clad or filled.

15 So I'm going to start with this basic
16 point, because I want to remind people that the
17 Guides are based on preventing consumer deception,
18 unfairness or deception. They are not meant to set
19 uniform high standards for the industry. Instead,
20 they are meant to prevent consumer deception.

21 But if these very specific industry terms
22 are not well understood by consumers, then my
23 question is, why should we continue to focus on
24 these terms like rolled gold plate and heavy
25 electroplate, et cetera?

1 And more to the point, when we talk about
2 specifying minimum thickness amounts for use of
3 certain terms to signify certain surface
4 applications, how does that serve consumer interests
5 if they don't understand these terms and if they
6 don't have specific expectations regarding the
7 performance and the quality of products described
8 with these specific terms?

9 So I think I'm going to start today with
10 Suzan, who is here representing JVC. So if maybe
11 you could talk to me specifically about consumers'
12 expectations regarding these specific terms?

13 MS. FLAMM: Certainly. And thank you,
14 again, for allowing us an opportunity to address
15 this issue.

16 In the work groups that Cecilia described
17 earlier, I will note that this issue of surface
18 platings emerged very early on as a premier issue
19 that was of concern in the industry. Not only
20 because of industries anxious to have a level
21 playing field so that they can be manufactured to
22 similar standards, but very importantly because the
23 opportunity for consumer deception everyone saw as
24 out there, given the increase in precious metal
25 prices that we've heard about and the greater

1 numbers of plated or products of surface layer
2 applications of precious metals. So we are very
3 happy that this is an issue that the FTC wants to
4 talk about more.

5 And we understand that your point is
6 well-taken, that consumers are confused by many of
7 the terms that have traditionally been used to both
8 to describe products with electrolytic applications
9 and products with mechanical applications. That
10 being said, the consumer research shows that there
11 is a baseline. There is something to work with,
12 given that there is some familiarity with the terms.
13 Consumers have said -- there are some number of
14 consumers that have said, and depending on the word,
15 and there is some variety there, but it is -- there
16 is some help in hearing those terms. And these are
17 terms such as electroplate or plate or vermeil,
18 let's say, or bonded. So these are words where
19 there is some baseline to work with.

20 Also, our research in the industry
21 indicates that these are words that are well-known
22 within the industry and have meaning, for the most
23 part, within the industry. So it would be a place
24 to start. Where the industry can understand these
25 words, the industry is looking for guidance as to

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
6 point. So in the JVC comment or the JVC task group
7 comment, you specifically indicated that for terms
8 like clad and filled, that have mechanical
9 applications, that you would confine those terms to
10 precious metal applications that are at least 1/20th
11 of the term.

12 I know that you did durability testing and
13 you also have the 4.32 micron test, and I know I'm
14 getting exceedingly technical here, but I have a
15 point. My question is, the JVC comment notes that
16 the 1/20th threshold is based not on durability, but
17 on industry use of the term. So I just wanted to
18 explore that again, given that the Guides are based
19 on preventing consumer deception and unfairness and
20 not aligning with industry use, I wanted to hear why
21 the Guides should be revised to reflect that or why
22 they should continue to mirror current industry
23 terms, as opposed to purporting with how consumers
24 understand the specific term.

25 MS. FLAMM: Well, the thought is that

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.

8 MS. KOSS: Mm-hmm.

9 MS. FLAMM: They will come to understand
10 it. Retailers will tell them exactly what that
11 means. And for that reason, we think it is also a
12 consumer issue that they should rightfully expect
13 that a product described as 1/20th would perform
14 better and longer than a product described as
15 1/40th, which we also -- which has a different term
16 associated with it.

17 MS. KOSS: Okay. Michael, I know you
18 wanted to speak before.

19 MR. AKKAOUI: Yeah. I think the fact
20 remains is that the processes, as the Guides
21 currently describe them, are in fact different
22 manufacturing processes. They have -- each of them
23 have their own separate value and application to the
24 industry.

25 MS. KOSS: Mm-hmm.

1 MR. AKKAOUI: Trying to overlap them in
2 some way would cloud how manufacturers, I think,
3 market their products to retailers and then
4 therefore provide more confusion to the overall
5 marketplace.

6 So I would be concerned about trying to
7 overlap them. I think the fact that they are kept
8 separate here and defined separately is appropriate.
9 Certain products that you can make using a
10 gold-filled, clad methodology --

11 MS. KOSS: Mm-hmm.

12 MR. AKKAOUI: -- you can electroplate
13 those products, but not vice versa. So I think
14 there's a value to that definition within the
15 industry. And therefore, if it is clear within the
16 industry or remains clear in the industry, I don't
17 think that providing some overlap into the
18 marketplace is going to be helpful.

19 MS. KOSS: Okay. I just have a question
20 for Mark, I guess, or it could be for Valerie or it
21 could be, again, for Susan. I noticed that, in the
22 recommendation where you are providing a unified
23 approach and you have the groups, you are terming
24 groups together, like electroplate and plate, that
25 you are grouping those groups together to signify

1 some kind of an electrolytic process. But when the
2 Commission drafted the Guides, they created what we
3 called a -- well, it's really basically a safe
4 harbor that essentially says that, no matter what
5 the application is, you can call it gold plate.

6 And so I noticed that the word plate is
7 grouped with electroplated, I was wondering if there
8 was a specific basis for that or why the term plate
9 was grouped with electroplated, given the fact that,
10 in the history of the Guides, we've used that to
11 signify other applications, not just electroplated.

12 MR. HANNA: My opinion is that the biggest
13 confusion created by the Guides as originally
14 drafted is the word plate or plated.

15 MS. KOSS: Mm-hmm.

16 MR. HANNA: Because it did exactly as
17 Michael discussed, it tended to create one
18 homogenous group of product that had some surface
19 layer application applied, no matter how it
20 happened.

21 And yes you are right about now saying
22 that plate or plated is the electrolytic process.
23 It needs to be separated one way or the other. It
24 should not stand for both and it is a foundation of
25 a lot of the confusion, at least in the application

1 in the Guides. I'm not talking about the consumer
2 at this point in time, but --

3 MS. KOSS: Okay. So it's --

4 MR. HANNA: -- the application of the
5 Guides, it's clearly confusing the way it is written
6 now.

7 MS. KOSS: Okay, so I just want to
8 clarify. The fact that there is a separate
9 provision that talks about coding or deposition of a
10 coding by any process can be called gold plate or
11 gold plated, you think that's confusing even though
12 the Guides have a second part that specifically
13 distinguishes electroplated products with
14 gold-filled, gold overlay, gold plated.

15 MR. HANNA: Different processes, different
16 manufacturing processes, different application of
17 the gold. Clearly different.

18 And further confusion is that goods that
19 are filled or clad or bonded, we refer to 1/20th.
20 What does that mean? That's 1/20th of weight. When
21 we refer to thickness in electrolytic plating, we
22 are talking about 7 mm or 1 micron. That's
23 thickness.

24 So even to try to lump these two together
25 with two different measures is far more defeating of

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
22 durability testing, and yet industry, the industry
23 standard for many years has been the 1/20th weight.

24 MR. HANNA: I think it would be some
25 combination of the karat and the thickness in the

1 end. That's why -- our metallurgist could probably
2 give you the tremendous detail, in terms of why the
3 mechanical process should be managed by weight as
4 opposed to thickness as the guide. It's what we can
5 measure. It's got to do with total mass, it's got
6 to do with densities. I don't know that it is
7 necessary to get into that level of scientific
8 detail.

9 MS. KOSS: Right.

10 MR. HANNA: But in conclusion, what this
11 is most about is instilling confidence in the
12 consumer that they know what they're getting. And
13 we think that separating them and being very clear
14 in how we define what we're talking about, in as few
15 terms as we possibly can, and establishing minimums
16 for each of those so they know at least what they
17 are getting from that definition, can do a
18 tremendous job for this industry and instilling
19 confidence.

20 And with the internet-researching consumer
21 base today, where if they want to find something
22 out, they can find it out, and it can be defined in
23 a way that they can understand it. So we actually
24 believe separating these two processes is very
25 important.

1 MS. KOSS: Yes, Suzan with a Z and then
2 Susan with an S.

3 MS. FLAMM: I want to speak a little bit
4 to your point about, okay, is this for the industry
5 or is this going to help consumers. I get it and
6 the truth is, there's not such a bright line.

7 If the industry is confused and if they
8 don't use terms in a way that is consistent across
9 the industry, even if they may seem technical and at
10 a level that a consumer might not read these Guides
11 before they go shopping, nonetheless, to the extent
12 that it allows the industry to comply with standards
13 and create products that have meaning when words are
14 used, you know, from the manufacturer to the
15 retailer, that is to the consumer's benefit and
16 prevents deception.

17 So I think it may not be such a bright
18 line between the two. And of course what we do have
19 though is what you've just flagged, that at some
20 level, below a certain thickness, warning, you know,
21 disclosure, consumer durability may not be assured.

22 So it sort of all fits together, we think.
23 And I get your point, but if we could help the
24 industry comply with standards and understand words,
25 we're going to help the consumer.

1 MR. HANNA: You think it would help the
2 consumer if they understood that 1/20th, 14 karat
3 gold-filled, gold washed, gold flashed at the
4 maximum of 6.9 mm. The 1/20th is 100 times more,
5 you know, give or take a couple of decimal points.
6 But it's 100 times more. I mean, that's an
7 important distinction, I think, for the consumer to
8 understand that, you know, that's a product of far
9 greater durability and long-lasting value, which is
10 what they really care about.

11 MS. LAURA KIM: Thank you. Susan.

12 MS. KELLY: Thank you. I want to just add
13 a few comments to what has already been said.

14 Definitely it would help the Guides be
15 more clear for the industry and whoever else may,
16 you know, avail themselves of the Guides to clean up
17 the terminology. Electrolytic joining of metals and
18 mechanical joining of metals needs to be very
19 separate in the verbiage for clarity.

20 In my opinion, I know there's a proposal
21 to redefine, or to actually define for the first
22 time, the word bonded in terms of a mechanical
23 application, to maintain filled, the gold-filled
24 with the fraction, rolled, gold-plate with adding a
25 fraction, and then setting minimum standards.

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 performance. But in addition to
7 that, it was the type of item.

8 So our tests and research showed that for
9 any item, other than a ring or a watch, we have a 1
10 micron tolerance for 18 karat, which is quite a bit
11 of plated tolerance. And for the rings and watches,
12 a 2 micron because of the variation in the amount of
13 wear, depending upon the type of the product.

14 So that is a factor that I think was
15 well-established and well-embraced by our customer
16 and that's why that brand is so successful.

17 There's quite a bit of product out there
18 with brand names that include "clad" that are
19 described as plated. I don't -- I wanted to make
20 note that I don't believe there is a good amount of
21 research determining that clad automatically is to
22 be defined as mechanically joined.

23 MS. KOSS: Okay. So when you talk about
24 plating, you are talking about electroplating as
25 well. Okay.

1 MS. KELLY: Mm-hmm, the electrolytic
2 plating.

3 And then one final note is something that
4 we haven't touched upon, and perhaps someone here
5 could speak to it, is the vapor deposition or plasma
6 vapor deposition, which is entering into our market
7 now and, I think, within the next five to ten years
8 we will be addressing the durability and thickness
9 of new processes as well, so.

10 MS. KOSS: Okay. Michael.

11 MR. AKKAOUI: Our company does PVD
12 coating, physical vapor deposition, and it is not
13 addressed in the current standard. The materials
14 that are used are quite foreign, quite frankly, to
15 the jewelry industry. You can use real gold in the
16 application, but most of the durability doesn't come
17 from the gold itself, it comes from the base that is
18 applied through physical vapor deposition. Usually
19 it is a conium nitride base that is applied.

20 It's dying to get some foothold in the
21 jewelry industry. It can only be applied, at this
22 point, to a limited number of products that are
23 completely unassembled and so it's at its infancy.
24 It may have it's place in the standards, in the
25 Guides, at some point in time.

1 MS. KOSS: I think both Susan and Michael,
2 I think you've provided a really good segue to
3 another area that we are interested in and that's
4 the factors affecting durability that go beyond
5 minimum thickness.

6 So Susan, you mentioned that there's other
7 aspects, you might have a different threshold for a
8 ring or a watch that you wear every day, you're
9 washing your hands, as opposed to a pin that you
10 wear on your lapel and it doesn't get the constant
11 use.

12 MS. KELLY: Mm-hmm.

13 MS. KOSS: And then you mentioned,
14 Michael, other factors. There could be a protective
15 coating and other factors that would affect
16 durability that would include the actual metal, the
17 precious metal you are applying, or the substrate
18 metal.

19 MR. AKKAOUI: That's right.

20 MS. KOSS: You know, one commenter said
21 that, given that there's other factors that affect
22 durability beyond minimums in thicknesses, that the
23 suggested thickness minimums might actually increase
24 consumer confusion.

25 So I wanted to throw that out there. What

1 impact does that have, the fact that there are
2 different factors, on whether we should include and
3 continue to include minimum thickness amounts in the
4 Guides to allow for specified terms like
5 electroplated or bonded or etc.

6 MS. FLAMM: Certainly, yes it is a complex
7 formula, but the premier item in the research we
8 conducted with experts in the field who have a
9 combined, you know, 100 years of experience plating,
10 electroplating and mechanical applications, was that
11 the go-to element was thickness. And that's why we
12 -- and it makes common sense that the more metal you
13 have on the product, the longer it will take to wear
14 out. The wear tests at Taber Industries, which is
15 an independent tester, conducted showed, in fact,
16 that with twice as much metal on it, it would wear
17 twice -- it would take twice as long for it to wear
18 off.

19 Tanury conducted testing, vibratory
20 testing, as well. LeachGarner conducted --

21 MR. AKKAOUI -- Taber testing as well.

22 MS. FLAMM: -- wear testing and those were
23 the critical factors for them, was how long does it
24 take this amount of metal to come off. And of
25 course you can't simulate every possible thinning,

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.

9 Taber Industries, world-famous, helped us
10 define what that weight would be. And then once we
11 got that data on the exact same weight and thickness
12 of coupons, we then did the standard jewelry test,
13 which is the vibratory test. Which, you know, Greg
14 and Brian did on materials that we prepared,
15 comparing gold-filled to plated. We just took and
16 said, can we correlate Taber to vibe, which has
17 never been done, and we did that.

18 The reason that that is important is
19 because you want to be able to take that information
20 and then say, now let's try to project how long that
21 is going to wear in the field. So the Taber test,
22 which is a great platform test for many industries,
23 was now correlated to the standard jewelry vibe
24 test, which we have some data that says here is how
25 it is going to last in the industry and we provided

1 that information to the Commission.

2 MS. KOSS: Okay.

3 MR. AKKAOUI: Okay.

4 MS. KOSS: So now again, I want to focus,
5 and this has to do with testing as well, but the
6 electroplating with gold alloy, as you know, I'm
7 sure, the current Guides state that it is consistent
8 with the guidance for products to be electroplated
9 with gold or gold alloy of not less than 10 karat
10 fineness.

11 The comments, however -- many comments
12 recommended the Commission specify that
13 manufacturers should not use low karat plating
14 because of the risk of, you know, according to
15 testing that there is tarnishing.

16 But Valerie, this is a question for you.
17 Sterling Richline comment mentioned that, when you
18 have electrolytic plating with gold, there should be
19 a 23.5 karat minimum. And the comment said, focused
20 on that, if you've got this kind of -- if you've got
21 10 karat gold as an electroplated plating, you're
22 only going to have 41 percent of the value compared
23 to a thicker plating. And the statement was
24 actually, there needs to be a single measure
25 indicative of this value perception.

1 And it could be Valerie, it might be Mark,
2 but I just want to hear a little bit more about what
3 you meant by value perception. You know, indicative
4 of a value perception and whether that was primarily
5 based on durability testing as well, and what you
6 mean by value perception?

7 MR. HANNA: Can I say something first?
8 Subsequent to our submission, we spent quite a bit
9 of time investigating the 23 and worked together
10 with Michael and his lab people and our lab people
11 and we would now revise that to say 22, primarily
12 because of the ability to apply and the ability to
13 measure versus the 23.5 in the real world. So we
14 would now say that that number is 22.

15 And to your question, the combination of
16 the karatage and the thickness, we feel, is really
17 the value proposition. And that, you know, at the
18 higher karatage, at a higher thickness, you have a
19 higher value. And we'd like to see the definitions
20 reflect that.

21 MS. KOSS: Okay, but when you've revised
22 it to 22. I'm sorry, when you revised it to 22,
23 that was based on the durability testing that
24 Michael provided or --

25 MR. HANNA: It was based on a combination

1 of the -- go ahead, Michael.

2 MR. AKKAOUI: The problem is is that if
3 you set it at 23.5, the chemistries that are out
4 there in the plating world, depending on how they
5 are alloyed or the brightness systems that are used,
6 such as cobalt, nickel, silver to promote hardness
7 in the deposit, can't be assured that you can
8 maintain it at 23.5. There is a high level of data
9 that says that you can easily maintain it at 22
10 plus. But when you look at all of the varieties,
11 and just trying to be clear to everyone in
12 manufacturing, when you look at all of the varieties
13 of chemistries out there, the concern is that you
14 might not be able to maintain 23.5 purity all the
15 time.

16 MS. KOSS: But for when I'm asking the
17 question about value perception, I'm just trying to
18 figure out, does that tie to durability? Or what's
19 the connection there? Again, I'm focusing on --

20 MS. FALEN: I think it's two different
21 issues. At first, we feel that there needs to be a
22 minimum standard for the thickness that provides
23 that reasonable durability to the consumer.

24 Secondly, the coating or the plating that
25 we are using needs to be measured in a stringent

1 value that is equal across all playing fields. If
2 I'm only using 10 karat gold to plate something, it
3 has much less value than if I'm using a 22 or 23.5
4 percent gold or karat gold.

5 So what we're asking for is, when plating,
6 everybody plates with the fine gold or the 22. So
7 everyone is on that equal playing field and the
8 value perception is the same to the customer, no
9 matter where they are purchasing their goods from.
10 So there's no confusion. We can build some customer
11 confidence and educate the customer, which I think
12 is the main goal here.

13 MS. KOSS: Right. And the reason that I'm
14 focusing on that specific point is that the Guides,
15 the purpose of the Guides, as the Commission has
16 said, is not to maintain high or uniform high
17 product standards, but instead to insure that
18 consumers aren't being deceived, just so you
19 understand the basis of my question. Dee?

20 MS. MERINO: Even when we are doing
21 plating, aren't we required to put if it is 10 karat
22 plated gold or 22 karat? I mean, doesn't the
23 definition of the karat have to be in front of the
24 plated term anyway, in the Guides? So wouldn't that
25 level the -- I mean, you can't just --

1 MR. AKKAOUI: Once you hit the minimum --

2 MS. KOSS: Once you hit the minimum of 10
3 karats --

4 MR. AKKAOUI: -- it doesn't matter.

5 MS. KOSS: -- you don't need to disclose.
6 You have to decide that based on karats.

7 But what, again, I'm trying to get at and
8 I don't mean to put you, Valerie, on the spot, it
9 could be anyone. But what we are trying to
10 determine is, is there a risk of consumer deception
11 at 10 karats? Is it based on -- I think, Michael,
12 you are going to talk about durability and what you
13 learned, but what is the value perception in
14 maintaining those high uniform product standards?
15 How does that tie to whether consumers are actually
16 being deceived by an electrolytic plating at 10
17 karats and above.

18 MS. FLAMM: I would just throw in that my
19 understanding is that yes, in fact, with the lower
20 karat quality there is -- those products don't
21 perform well and consumers are disappointed at the
22 very low karat quality, which is why we made the
23 recommendation that it be at least 22 karats. It's
24 our understanding from the conversations with the
25 experts that that is where there is more uniform and

1 more consistent and more predictable performance.
2 If you are at a 10 or 12 karat, then there's going
3 to be problems with that product.

4 MR. AKKAOUI: There are several key
5 factors that you have to consider. The lower karat
6 chemistries are alloyed, in most cases, with silver.
7 And what happens is is that, at almost any
8 thickness, you get this phenomenon called bleed-out,
9 which is a form of tarnish. Even if you build a
10 layer over that 23 karat gold, you have to have a
11 minimum thickness of that 23 karat gold in order to
12 stop that or prevent that from occurring in the
13 field.

14 The second factor that is really critical
15 to your point is that there is a real value issue
16 here. Seven millionths of an inch of 10 karat gold
17 is a lot less valuable than seven millionths of an
18 inch of 22-plus karat gold.

19 MS. KOSS: Mm-hmm.

20 MR. AKKAOUI: The third factor that comes
21 into play is the inability, the significant
22 inability for the world to measure that.

23 MR. HANNA: That's what I was going to
24 say.

25 MR. AKKAOUI: Because in order to

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 understood, to be quite honest with you. There are
2 some folks who have studied it, tried to implement
3 it, but in general, I would say that 90 percent
4 don't understand what that means the way that Susan
5 understands it.

6 MS. KOSS: But why do you think that's the
7 case? I mean, can you --

8 MR. AKKAOUI: Well, it doesn't describe,
9 it doesn't given an example. It doesn't describe,
10 you know, some methodologies for compliance with
11 that clause. It's rather vague.

12 MS. KOSS: Okay.

13 MS. KELLY: Other than the foot note. You
14 need to refer to a footnote.

15 MR. AKKAOUI: Yes. We had to go to the
16 footnotes of the original drafters of the standard
17 to understand that.

18 MS. KOSS: Okay. So I'm going to move --
19 just in the interest of time, I'm going to move to
20 thresholds for silver, because this is something
21 that, Dee, I know is important to you.

22 So TSIs comment, as you know, suggested
23 that for silver, we should refer to the standard for
24 gold in that safe harbor, which is 0.5 or one-half
25 microns, 0.5 microns. And basically, correct me if

1 I'm wrong, but TSI is saying that that should be the
2 standard, regardless of the application. And that
3 that is based on -- that is consistent with
4 historical plating standards and, because of that,
5 that would meet consumer expectations.

6 And I'm focusing on this because this,
7 your recommendation, focuses on the standard that is
8 considerably less than the other recommended
9 thresholds. And I wanted to hear a little bit more
10 about what the basis was when you talked about
11 consumer expectation. So if you could speak a
12 little bit more about your justification for the
13 recommendation?

14 MS. MERINO: Sure. And actually, I think,
15 since then, just like I think Mark and everyone
16 else, that we've made changes to our position since
17 last September.

18 But we are definitely fine with allowing
19 the mechanical application to go through the same
20 percentage as what JVC and everyone else has
21 recommended. We were okay with that delineation
22 versus the electroplating aspect.

23 And when we had done our research --
24 because we were -- when obviously sterling silver
25 has taken the increase that it did several years

1 ago, we started going into plated product versus
2 pure sterling silver, or 92.5 percent sterling
3 silver. And we looked to our attorneys and we
4 looked to going to the FTC to try to understand what
5 is the minimum thickness we need on there to be able
6 to call it silver plated. And there wasn't a whole
7 lot of guidance because it just says that it had to
8 be a substantial thickness.

9 So we looked to just the understanding
10 that gold has been out there at 20 mills, at the
11 time, to be able to call something gold-plated, it
12 needed 20 mills of thickness to be able to use that
13 term.

14 So we use that as our basis to say, as
15 long as we have a minimum of 20 mills of silver,
16 then we would also be able to call it silver-plated
17 in the marketing of the product.

18 Since then, we have actually increased our
19 level of plating to 40 mills instead of 20 mills,
20 only to be able to offer something that we feel may
21 be above what the competition was doing, not from a
22 durability or a study from consumer groups. But
23 what we have done is, looking at our production of
24 our sterling silver line, our plating there is --
25 obviously it's 92.5 percent silver, so there's other

1 alloys in there, but the way we plate is including a
2 40, at least 40 mills of 0.999 silver as the final
3 coat to the consumer.

4 So to us, the expectation of the consumer
5 is, you're buying a silver-plated item would be it
6 should last or be similar to if I'm buying a
7 sterling item. I know it's not going to be as
8 durable, because I'm not paying the price that I
9 would pay for sterling silver, but it should wear
10 the same.

11 But we have changed ours to 40 mills,
12 which has been in our manufacturing base, in our
13 experience in 40 years of doing sterling silver, we
14 use 40 mills of pure silver on top of the 925.

15 MS. KOSS: So how much is 7 microns? I
16 think that it's easier to --

17 MS. MERINO: 40 mills is 1 micron.

18 MS. KOSS: Okay, okay. But then again,
19 you're saying that is based on your experience in
20 manufacturing the product. Did you do some
21 additional durability testing as well?

22 MS. MERINO: We have not done any formal,
23 you know -- we don't have metallurgists in our
24 company so we are not doing any formal studies on
25 that. That is just based on -- we can ask Mike,

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 --

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 want to start again with Pam and Susan. Are there
2 currently disclosures that are common in the
3 marketplace that talk about a lack of durability for
4 products that are below the thresholds, that either
5 are suggested in the Guides currently or in the
6 numbers that JVCs task force has recommended? Does
7 anything exist at this point in the marketplace?

8 MS. KELLY: It does in mine.

9 MS. KOSS: Because I'm assuming that
10 products exist in the marketplace now that are below
11 the threshold.

12 MS. MORTENSEN: Absolutely. And there are
13 no disclosures that I --

14 MS. FLAMM: Well, I'll just add this as
15 far as development in the industry, which is a vast
16 number of products now with these very, very thin
17 coatings, which is not brand new but has certainly
18 increased over the last year or so. And when the
19 Guides were last written, we weren't dealing with
20 those kinds of products. So the fact that retailers
21 have not yet devised on their own some disclosure
22 makes sense. They are sort of waiting for guidance
23 from JVC, from the FTC, as to how to handle that,
24 which is a relatively new phenomenon.

25 MS. KOSS: Mm-hmm.

1 MS. KELLY: I would say that we turned it
2 around to a positive spin, in that rather than
3 "Beware, this clad product will wear out faster than
4 a solid, an entirely 14 karat yellow gold plate
5 piece" we will advocate special care for any plated
6 item. So although we didn't address -- we address
7 any metal surface that is a precious metal over
8 another.

9 MS. KOSS: Dee.

10 MS. MERINO: Can I just get a
11 clarification? Are we -- is the JVCs position that
12 there should be a disclosure or warning if they are
13 below the mills of thickness? So that would be
14 every product, other than what meets these minimums,
15 would have that warning on it?

16 MS. FLAMM: If the seller references a
17 precious metal surface layer application, if they
18 said, here, buy this pretty gold-plated item --

19 MS. MERINO: But they can't call it gold
20 plated unless it --

21 MS. FLAMM: That's true. So, buy this
22 pretty item that has gold on it.

23 MR. AKKAOUI: Gold tone.

24 MS. FLAMM: Gold tone, gold washed, gold
25 flash. Then we would say yes, you reference that

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 plated product should be treated -- you know, do not
24 have the ring sized. You know, certain things that
25 the customer needs to know, we will share that

1 information.

2 I don't know that that answered your
3 question to the degree that it could. I would say
4 though that the word "gold" in terms of -- this is
5 something that maybe guidance could be given as
6 well. Saying the word "gold" G-O-L-D alone,
7 standing alone, in referring to an item of having
8 gold or gold on the surface or anything else, that
9 is so low, below these standards, with an admission
10 that it is below the standards, then it would
11 accompany a disclosure that it may not wear well.
12 We are assuming that our standards and higher will
13 wear well enough to not require a disclosure. But
14 there are some instances where plated products will
15 not perform as well, such as in sizing rings.

16 And also, in my opinion, combining the
17 word "gold" and "tone" into one word of "goldtone"
18 changes it. And I think it becomes a color, like
19 silvertone and goldtone.

20 MS. KOSS: Mm-hmm.

21 MS. KELLY: So maybe there's some clarity
22 there that we could identify.

23 MS. KOSS: So you mentioned ring sizing,
24 do you think -- and we've been focused, as the
25 Guides focus, on durability as the issue here. But

1 do you think there is other issues beyond durability
2 that need to be disclosed?

3 MS. KELLY: It's a good question. I think
4 --

5 MS. KOSS: Or that are disclosed
6 currently.

7 MS. KELLY: Yeah. I think the retailers
8 do guide their customers appropriately. We are
9 driven to do that to keep our return rates low and
10 to keep our customer satisfaction high.

11 I'm not sure if guidance in the FTC
12 guidelines would help clarify or not, in terms of
13 performance and care.

14 MS. KOSS: Relatedly about disclosures,
15 the Guides do currently state that when you have a
16 mechanical surface layer application, if you are not
17 meeting the 1/20th weight, then you should disclose
18 the precise weight, and the portion of the weight of
19 the metal and the entire article.

20 So they give an example of 1/40th. And I
21 know that JVCs comment states that consumers don't
22 understand, for example, rolled gold plate so
23 they're not going to understand rolled gold plate,
24 1/40th.

25 SO I just -- why would be -- since the

1 Guides have traditionally told marketers to disclose
2 if you are not meeting that 1/20th and if 1/20th is
3 the industry standard, then why would consumers be
4 confused by that additional information, with the
5 precise weight?

6 MS. FLAMM: It didn't seem to us that it
7 was a helpful descriptor. And since part of our
8 effort was to simplify, we made the choice that it
9 would be better to just define terms such as bonded,
10 plate, filled, as either 1/40th or 1/20th, so that
11 those terms would only be used for that weight
12 ratio. And then just get rid of the necessity to
13 add a fraction in front of it, and then the lift
14 required to educate consumers about those terms and
15 start creating understanding would be that much
16 easier. Yeah, including the fact of just details
17 like why, that just won't help in this effort. So
18 that's why we came up with the scheme that we came
19 up with.

20 MS. KOSS: Okay. Now Susan, going back to
21 you mentioned goldtone and silvertone and I know
22 that -- and you seemed to refer to those as costume
23 jewelry, right? I just -- are those terms current?
24 Is that something that's prevalent, the use of
25 goldtone and silvertone, and how do consumers

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
17 there's a lot of other terms like flashed and washed
18 and overlay and duragold and durigold with an "I".
19 And some of the comments noted that they are not --
20 a lot of those terms, specifically duragold and
21 durigold, are not being used by the industry and
22 they are confusing the consumers because they don't
23 have a plain English term and they don't convey
24 anything specific.

25 But you know, at the outset, I just want

1 to hear a little bit about how that is really
2 different from terms like clad and filled? Because
3 consumers similarly are unfamiliar with them and yet
4 we, you know, are contemplating including those in
5 the Guides and people have given us thresholds for
6 those.

7 MS. KELLY: May I?

8 MS. KOSS: Go ahead.

9 MS. KELLY: Thank you. I think there may
10 be a place for flashed and washed, only in that it
11 would require disclosure for being not that durable
12 or as durable as a mechanically-applied or
13 electrolytically-applied process.

14 But I think we have a great opportunity
15 here. We have some terms that we have used, and
16 used maybe loosely, some very well-defined and some
17 not so defined. And I would think that we have an
18 opportunity to define levels of thickness specific
19 to a term. And perhaps, you know, you can give me
20 some clarity. I'm hearing that we are going to use
21 the word bonded with a minimum of maybe 1/40th and
22 filled with 1/20th and then rolled with 1/40th. And
23 maybe there's an opportunity to say, okay, rolled is
24 1/40th, filled is 1/20th, and then go up. I think
25 there's an opportunity here to go to, you know, that

1 sweet spot that is just a little more durable, maybe
2 a bit higher in price, but it would give our jewelry
3 industry, perhaps, more clarity and more flexibility
4 in the types of products that we could acquire. So
5 that's a thought.

6 But in terms of customer perception and
7 not deception, I think very clear, defined terms
8 with minimums would be essential.

9 MS. KOSS: You mentioned gold wash as
10 something to describe mechanical and electroplated,
11 but currently the Guides refer to the terms gold
12 flashed and gold washed, both of them, to describe
13 products that have an electrolytic application but
14 are less than the 1.75 equivalency, the microns of
15 gold.

16 MS. KELLY: Mm-hmm.

17 MS. KOSS: So I'm curious, are the terms
18 gold washed and gold flashed still being used in the
19 marketplace and do consumers understand that to be
20 an electrolytic application?

21 MS. KELLY: May I just say that we do not
22 use those terms and we do not go that thin, but I
23 think there's more than just electrolytic. I
24 believe, and others would speak perhaps to clarify
25 this, that whether or not a current is actually

1 applied through the bath, so that there's one type
2 of mechanical bonding, electrolytic bonding onto
3 the metal, it's kind of a hot bath or a cold bath,
4 whether there's -- can you elaborate?

5 MR. AKKAOUI: Yeah. There's actually --

6 MS. KELLY: So you can get really, really
7 low and very temporary as well.

8 MR. AKKAOUI: Electrolytically, in
9 electroplating chemistry, you can go as low as one
10 millionth of an inch. There are immersion
11 chemistries that can apply that much and lower
12 without using a current, but it is still a
13 chemistry. And I think that you have to separate
14 the chemistry applications, whether they are
15 electrolytic or not, from the bonding or mechanical
16 applications. Correct me, if I'm wrong, for those
17 that know about cladding or bonding, you can't go
18 that low in a clad or bonding. It's probably not
19 even economically efficient to go that low in that
20 process.

21 So I think that goldtone and gold wash
22 kind of live and breathe within the chemical
23 deposition world, most of them being electrolytic.
24 But there are some cases of immersion, non-electrolytic
25 applications as well.

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
 2 disclosure.
 3 MS. FLAMM: Yes.
 4 MS. KOSS: But your recommendation would
 5 be, you could use those terms, but you would have to
 6 also additionally include a disclosure that
 7 reasonable durability is --
 8 MS. FLAMM: Yes, if they are below those
 9 minimums, we would recommend --
 10 MS. KOSS: Okay. And I'm -- Dee, did you
 11 have your hand up?
 12 MS. MERINO: I did, but I guess I was just
 13 trying to get to where is this --
 14 MR. AKKAOU: Just to --
 15 MS. MERINO: -- recommendation for a
 16 warning? I mean, would that be something that the
 17 FTC would be monitoring or managing? Is it up to
 18 the discretion of the retailer to determine where
 19 that warning goes?
 20 I guess, I just envision there are so many
 21 warnings and products in jewelry are such a small
 22 thing. There are so many warnings now that if you
 23 have an image in marketing that you're putting out
 24 in marketing -- you know, gold is the big thing on
 25 the front of the card and then on the back of the

1 card, it's this one little sentence that is, you
 2 know, so small.
 3 I guess, would there be information in the
 4 Guides that would specify exactly how that warning
 5 would need to be executed?
 6 MS. KOSS: That's actually -- I think
 7 that's a question more for Suzan because it's what
 8 your proposal is. I mean, we're not going to be
 9 speaking to -- you know, we are still in the middle
 10 of the review, so we are not going to be speaking to
 11 the commenter's proposals.
 12 But Suzan, you might want -- do you have
 13 any thoughts as to where that durability, or lack of
 14 durability, disclosure would go?
 15 MS. FLAMM: Yes, we have thought about
 16 that. And the way generally the Guides address this
 17 would be they advise, they cannot -- they don't
 18 direct or require, but they advise sellers if a
 19 disclosure is necessary, if it has been triggered by
 20 particular representation, they advise sellers to
 21 make whatever the disclosure is.
 22 In this case, it is durability is not
 23 assured. And there is a lot of guidance on how the
 24 disclosure should be made. They should be
 25 prominent? What is the word?

1 MS. LAURA KIM: Clear and prominent, clear
2 and conspicuous.

3 MS. FLAMM: Clear and conspicuous, thank
4 you. That just escaped my head, clear and
5 conspicuous. But generally, the FTC will not say
6 exactly what that means. That generally comes --

7 MS. KOSS: Right. It has to be very
8 case-by-case, which is why I was wondering whether
9 you had a specific proposal beyond, you know -- the
10 Commission would, of course, want to ensure that
11 consumers see and understand the disclosure that is
12 being made at the point of purchase. And so it has
13 to be clear, it has to be prominent, it has to be in
14 close proximity to the claim.

15 But again, we can't -- because it depends
16 on the specific context, we can't just tell you
17 exactly it has to be this font, it has to be --

18 MS. FLAMM: Right.

19 MS. KOSS: -- this many inches away from
20 the claim itself.

21 MS. FLAMM: Well, we do have some
22 experience advising the industry. Actually, a lot
23 of experience advising the industry about
24 disclosures because, you know, treatments to gem
25 stones have to be disclosed, karat weight ranges

1 have to be disclosed. So we've worked closely with
2 people in the industry as to how to do those hangtag
3 marketing materials.

4 The FTC recently issued a lot of very
5 helpful guidance on having disclosures online. We
6 try to interpret that throughout the industry,
7 that's what we're here for.

8 MS. KOSS: So that's a good point about
9 disclosures and comparing the disclosures to
10 treatment disclosures.

11 So a question that I have, and I think
12 this is for Mark or Valerie, is you talked -- your
13 comment talked about the practice of rhodium plating
14 over white gold or other metals. And you talked
15 about how, in many cases, the rhodium might wear
16 away and so there might need to be replating in
17 order to ensure that the product continues to
18 maintain the appearance that consumers expect.

19 So could that -- I mean, do you consider
20 that to be a kind of treatment, similar to the
21 disclosure -- we have a whole separate section on
22 disclosure of treatments, at 23.22, to gemstones
23 where you have to make a disclosure if the treatment
24 is not permanent, if it creates special care
25 requirements.

1 So how do you feel about that, in terms of
2 the --

3 MR. AKKAOUI: Go ahead.

4 MS. FALEN: Because we are the largest
5 jewelry retailer in the U.S., we feel it is
6 incumbent upon us to lead by example in one of
7 transparency to our consumers. The proper
8 disclosure and product education in the industry
9 needs to have consistent standards and they need to
10 follow proper -- we need to have some enforcement of
11 those standards for the violators as well.

12 One of our most common complaints we
13 frequently received from our consumers was related
14 to the dissatisfaction of the white gold jewelry.
15 Customers were unaware that products were
16 rhodium-ed, that rhodium was used to plate the white
17 gold in order to provide a bright white finish.
18 However, over time, it rubs off. We all know that.
19 Normal wear will rub off your rhodium.

20 The complaints that we received were that
21 the white gold jewelry was defective, it was
22 tarnished, because that alloy, the white gold alloy
23 began to come through as the rhodium wore off.

24 So upon seeing a number of these customer
25 complaints, we've been up front with our customers

1 in our sales presentations. We have over 18,000
2 employees over 1,400 stores and we have
3 operationally trained our sales associates to
4 disclose this fact up front to our consumers, that
5 your product does have rhodium over the white gold.
6 If they are selling them a white gold piece of
7 jewelry, we let them know that, under normal wear
8 and conditions, that rhodium will begin to wear off
9 and that they will have to come back to have it
10 reapplied.

11 MS. KOSS: And since we only have about
12 another five minutes before we open up for
13 questions, I wanted to come back to some of the
14 terms that commenters recommended that we not
15 provide guidance on.

16 You mentioned, Suzan, that durigold and
17 duragold, D-U-R-A-gold and D-U-R-I-gold people are
18 not -- people don't know what they mean, your staff
19 does not know what they mean, and they don't have a
20 plain English meaning. But what about terms like
21 over and overlay? And I'm raising those because
22 they do have a plain English meaning and because
23 there was a difference in the commenter's opinions
24 on whether those terms, guidance should be retained
25 on those terms.

1 So for example, Dee, you specifically --
2 the TSI did suggest that the Guides retain guidance
3 for overlay. And you know, there's a difference of
4 opinion there, so I just wanted to open up, for the
5 last five minutes, if we could talk about terms like
6 over and overlay, given the fact that they mean what
7 they mean. You have a precious metal over a base
8 metal.

9 MS. FLAMM: If I could address the over,
10 typically the way that's used, or the way we hear
11 it, is gold over silver or platinum over silver. We
12 are very concerned with the use of that term because
13 it -- consumers expect, from our research and what
14 our common sense told us, is that they would expect
15 that that first precious metal that they hear in a
16 description would be the predominant metal.

17 So we've long cautioned the industry that
18 describing something as gold over is not an
19 appropriate way to describe a product. And we try
20 to make that clear in our suggestions by
21 specifically saying that the dominant metal should
22 be listed first.

23 MS. KOSS: And how is it different than
24 gold electroplated or gold, rolled gold plate?
25 Where again, you are mentioning the -- Mark really

1 wants to talk.

2 MR. HANNA: No, I think the real question
3 is, what is it? What is over? It's a phrase that
4 didn't exist commercially when the Guides were done.
5 So whether it -- it either shouldn't exist or it
6 should be defined.

7 MS. KOSS: Well, the question is, how do
8 consumers understand it.

9 MR. HANNA: They understand it as -- you
10 know, we spent a lot of time in the early committee
11 talking about the importance of 6 karat versus 4
12 karat versus 3 karat. I think we are allowing the
13 word gold to be used absolutely totally undefined as
14 the first word in a consumer product and it needs
15 definition.

16 I know I'm a broken record, but define the
17 terms and set the minimums. And this is an
18 undefined word, so it's uncharted territory, so it
19 means anything.

20 MS. KOSS: You think it's undefined, but
21 is it unused? Do you see it as --

22 MR. HANNA: No, that's the problem. It's
23 very well used, but it's undefined.

24 MS. KOSS: And has anyone seen consumer
25 perception of it and whether consumers understand?

1 First of all, is there a difference between over and
2 overlay? Because you specifically focused on over.

3 MS. FLAMM: Right. We did not test gold
4 over. It's -- but for the reasons I mentioned, we
5 have a lot of concern with gold over silver. It's
6 not defined and it runs into our concern that
7 consumers hear gold over and think that there's more
8 gold in it.

9 Often that term, as it happens, often that
10 term is used for products with just a tiny, tiny,
11 tiny, very thin amount of gold on it, because they
12 are not using terms like electroplating. They are
13 not using the defined terms. But consumers hear
14 gold over and may well think that it's the
15 equivalent of a gold electroplated product, when in
16 fact it's far less. And they might even think that
17 it's better than that.

18 And overlay, I already spoke about that.
19 That's just one of the terms that we thought, since
20 the way that -- what that term is applied to is
21 generally the very thin applications, the disclosure
22 wouldn't be required. We were trying to simplify
23 and we just thought that was one we could live
24 without.

25 MS. KOSS: Okay. Michael, one last --

1 you're going to have the floor last and then we're
2 going to up it for Qs and As.

3 MR. AKKAOUI: I think if you are going to
4 define those terms, they should be defined by the
5 methodology that is used to create them. And they
6 should refer back to, in the Guides, whatever is
7 being recommended, the thicknesses for whatever that
8 application is. That's just my opinion.

9 MS. KOSS: All right. So now we have ten
10 more minutes, so if anybody in the audience has any
11 questions for any of the panelists? No?

12 MS. KELLY: I have a question about Mike's
13 answer.

14 MS. KOSS: Okay. Go ahead, Susan, and
15 then Valerie.

16 MS. KELLY: Thanks so much. So I think
17 I'm hearing that you're saying well, okay, if you're
18 saying 18 karat gold-plated on or over sterling,
19 that that is clear?

20 MR. AKKAOUI: Well, I'm saying that if the
21 term "over" or "overlay" is used without much
22 definition, which I'm hearing is usually the case,
23 that the methodology of application -- because you
24 can have a clad and call it an overlay, right? Or a
25 mechanical bond and call it an overlay.

1 So the definition around that word should
2 be guided by the factoring methodology that's used
3 and therefore should be defined in that fashion.

4 MS. KELLY: And did I hear anyone
5 substantiate why maintaining the word overlay was a
6 good idea?

7 MR. AKKAOU: I'm just saying if it were.

8 MS. KELLY: If it were. Well, then I
9 don't know that it is a good idea to maintain
10 overlay.

11 MS. KOSS: Valerie.

12 MS. POTEET: It's Veronica.

13 MS. KOSS: Veronica, I'm sorry.

14 MS. POTEET: My sister is Valerie.

15 MS. KOSS: Really?

16 MS. POTEET: This is a great discussion.
17 And I think that, for me personally, the white gold
18 issue, and the disclosure, should be -- is big. But
19 I think all the plates and the washing and cladding
20 and all those kind of terms, I think we discussed it
21 a little -- I hate to see it getting too semantical,
22 so. And I know they are different products, but I
23 don't know --

24 MS. LAURA KIM: I think it was Valerie who
25 was mentioning that it was your company's practice

1 to make a disclosure about the special care that
2 might be required for these white gold products.

3 So my follow-up question is, is that
4 something that you've chosen to do, do other people
5 think that this is an issue that should be addressed
6 in the Guides to prevent consumer deception across
7 the board? Yeah, Brian.

8 MR. CLAPPROOD: I think it has been and we
9 are recommending that there be a minimum threshold,
10 a minimum tolerance for manufacturers. And it still
11 is a good practice to educate consumers and
12 hopefully there are few returns.

13 And you can choose to educate the
14 consumer, but by putting minimum thresholds, the
15 durability will be enhanced and we will have few
16 problems. I think the issue right now is there is
17 no regulation, there's no specification, and people
18 could be putting 1 mill, 2 mills or 3 mills.

19 MS. LAURA KIM: Valerie, do you want to
20 follow up?

21 MS. FALEN: I agree with what Brian is
22 saying. There is no current minimum standard for
23 the rhodium plating, but no matter what the plating
24 thickness is, it will wear off in time.

25 MR. CLAPPROOD: Right.

1 MS. FALEN: So we are recommending that
2 they have complete disclosure, whether that be
3 written materials or, you know, across that 18
4 inches of the counter like my colleague said
5 earlier. We have to let the customers know what
6 they are getting and let them know that this will
7 happen, it is normal. And that it can be reapplied
8 so their piece will look bright and white again.

9 MS. LAURA KIM: So is it your view then
10 that, even with a certain minimum thickness, it will
11 always require reapplication to maintain the product
12 and that that is something that should be disclosed?

13 MS. FALEN: Mm-hmm. And over time --

14 MS. MORTENSEN: If it's in a box, it will
15 stay pretty forever.

16 MS. LAURA KIM: And that's unique to
17 rhodium plating, as opposed to other platings?

18 MR. AKKAOU: Well, it's unique to the
19 application over white gold.

20 MS. MORTENSEN: I think that's the issue.

21 We have the same issue with our bridal, because
22 bridal is prominently sold in white. And so, I
23 mean, it's like 70 to 80 percent of the sales are
24 white gold. And so the customer -- they are shocked
25 when you tell them that there's rhodium plating.

1 They don't understand what rhodium plating is. We
2 also teach and train to that, to let the customer
3 know that it will be an issue and to expect it.
4 Because they don't really understand that white gold
5 is not a white metal. So I do think it's important.

6 MS. KOSS: Suzan.

7 MS. FLAMM: I would add that, yes, it's --
8 first, we absolutely believe that the disclosure
9 should be made that it's rhodium-plated. And
10 remembering that the purpose of the rhodium-plating
11 is -- rhodium is this great white metal that will
12 create a really white product and that the special
13 care requirement is a good idea.

14 It turns out that replating is not a huge
15 investment of money. It can be easily done, a lot
16 of people do it and it doesn't cost a fortune. And
17 that's how people maintain their product over a
18 lifetime, is simply by knowing that this plating may
19 come off and that you just go back and get it
20 replated.

21 MS. KOSS: But are there are platings,
22 besides rhodium plating, that are used typically in
23 the industry? I mean, I know that in the bridal
24 market, I understand the concept that you want
25 something to be white, but are there are platings

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. AKKAOUI: 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. AKKAOUI: It's not about rhodium, it's
6 about white gold.

7 MS. MORTENSEN: Yeah.

8 MS. KOSS: Right.

9 MR. AKKAOUI: 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. AKKAOUI: 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. AKKAOUI: 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. AKKAOUI: 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. AKKAOUI: 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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1 CERTIFICATION OF REPORTER
2 DOCKET/FILE NUMBER: G711001
3 CASE TITLE: JEWELRY GUIDES ROUNDTABLE
4 DATE: JUNE 19, 2013
5

6 I HEREBY CERTIFY that the transcript contained
7 herein is a full and accurate transcript of the notes
8 taken by me at the hearing on the above cause before the
9 FEDERAL TRADE COMMISSION to the best of my knowledge and
10 belief.

11
12 DATED: 6/25/2013
13

14
15 STEPHANIE M. GILLEY
16

17 CERTIFICATION OF PROOFREADER
18

19 I HEREBY CERTIFY that I proofread the transcript
20 for accuracy in spelling, hyphenation, punctuation and
21 format.
22

23
24 DIANE QUADE

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