



July 20, 2005

Federal Trade Commission  
Office of the Secretary  
Room 135-H (Annex Y)  
600 Pennsylvania Ave., NW.  
Washington DC 20580

Re: Jewelry Guides, Matter No. G711001

The Federal Trade Commission has invited public comment on whether the Jewelry Guides should be amended to discuss how products between 500 and 850 ppt pure platinum and no other PGM should be marked or described.

On behalf of Kwiat, Inc., producers of platinum diamond jewelry since 1907, we respectfully submit these comments consistent with the Jewelry Guide's "general prohibition against unfair or deceptive use of the term platinum".

In response to the questions asked in Federal Register notice 16 C.F.R. Part 23:

1. Should the Jewelry Guides be amended to address 500-850ppt no other PGM?

Unequivocally the answer needs to be yes. It is no different than the convention requiring which platinum group metal and how many ppt be included in the marking of any use of the platinum mark. It would be meaningless to say no platinum group metal without disclosing what alloy is indeed used. Why would you have a different set of standards for PGM vs non-PGM?

2. In response to consumer expectations, Kwiat believes the public has a limited but meaningful impression as to the rarity, purity, durability, and substantial weight difference between platinum products and other jewelry metals. Largely because of FTC guidelines, platinum has historically and traditionally been marketed that true Platinum markings mean at least 950ppt. Anything less has required descriptive alloy information. It is quite accurately reflected in the consumer's mind that platinum is a premium, pure product. Consumers, retailers, and even manufacturers do not have a working knowledge of the periodic table of elements nor should it be a reasonable expectation that they can be educated in advance of the particular moment when a purchase is about to be made. Every effort should be made by the FTC to avoid the confusion, potential deception (perhaps simply by the omission of education), and the potential of "unfair" competition with the advent of these new platinum products.

3. In answer to whether these new platinum products are to be sold, Kwiat understands that in a competitive marketplace and in the face of rising commodity prices, certain manufacturers or price point sensitive products will inevitably turn to less expensive raw materials. We have no problem with their being merchandised in the mix of jewelry products available in the marketplace as long as such products are called something other than platinum. We share the FTC's concern for confusion and deception for the consumer. We do believe it is this current set of Guides that has in fact protected the purity of the platinum products just as it raised the meaning of 14k and 18k markings to be absolute minimums as to gold content.

We believe that ANY marking using any portion of the marking of Pt, Plat, or Platinum is unfair and deceptive when associated with products containing between 500 and 850 ppt pure platinum and no other PGM, as in a competitive sense the primary reason for less ppt plat and non PGM group alloy is price. To allow the representation of such a product as some form of platinum, when after all these years such product has not been allowed the use of such markings, would simply give a competitive price advantage to this new material and take advantage of the impression created in the consumer's mind of a premium quality raw material formerly reserved for purer metal. The confusion will inevitably result in the diminishing reliability of what the plat marking has meant to this point.

In fact, the question asked is if non-PGM products are currently being marketed. I would like the FTC to reflect on its own question. The manufacturer needs to bear the responsibility of "marketing" their new product. The manufacturer needs to adopt the responsibility of informing the public about the fact that this is a different, less expensive alternative. It is about marketing. The FTC is being asked to extend the meaning of the marking platinum or its varieties to avoid the necessity of having to market or advertise the difference between the traditional metal and the new hybrids. Rather than allow these less expensive varieties to slip in under the umbrella of all the purity promises the Platinum Guild International has been publicly espousing for the last 10 years at considerable expense, new product must make its own case to the consuming public and in Kwiat's opinion should be called something other than platinum. A very accomplished metallurgist in the industry, Steven Kretchmer, has developed a patented metal of 770ppt plat which has alloy causing the metal to be magnetic. He has chosen to market the metal as Polarium. He is, of course, extolling its virtues as being platinum based but is unable to stamp the product platinum under the current guidelines. It is his responsibility to make his product marketable.

4. Based upon our experience we do not believe there is any way to convey the differences to consumers between traditionally marketed platinum products and products composed of between 500 and 850 ppt pure platinum and no other PGM.

5. Because Kwiat is unfamiliar with the products composed of between 500 and 850 ppt pure platinum and no other PGM and has no experience over any period of time, we have no opinion of any significant differences between such products and the 950 platinum we currently work with. We do not believe there is any long term evidence even for those who have developed the new material. In fact, the FTC should proceed with caution before it allows markings, including the varieties connoting platinum, until it has evidence that it is not simply confusing or deceptive but that in fact the new alloyed material behaves in all manners similar to purer metal.

I share the concern of many in this industry that this prospective platinum alloy with no PGM may present special issues that require additional information. Undoubtedly, the bench jeweler checks the markings to see what metal he is about to be working on. In even the most basic repairs or re-sizing they will be submitting the piece to intense heat. Different alloys may cause unexpected consequences and may in fact actually blacken or ruin the piece beyond repair. The simple fact of life, this very important part of this industry represents the manufacturing front lines closest to the public but the reality is they are not aware of this current issue and likely will not be communicating with the FTC what their concerns are on this matter might be. I doubt that these concerns will be adequately represented to the FTC in a timely way before your ultimate decision in this matter. In truth, only experience including unanticipated consequences will tell the reality of the potential pitfalls.

6. While most domestic consumption is purchased domestically even if produced overseas, it will conform to FTC guidelines. International standards should be consistent with our domestic standards in this global economy. Efforts should always be made to simplify and standardize guidelines so that all manufacturers are on a level playing field.

In fact, we have just become aware of the fact that different states have different minimum platinum content requirements pertaining to this issue. This is not an issue of federalism where one state might/ ought to have different standards on behalf of their consuming citizens. The FTC should dictate US standards and work in concert with ISO/CIBJO internationally as guardians of a consuming public without the expertise to protect themselves in a “buyer beware” marketplace.

7. The platinum section should of course be comprehensive and address all practical matters affecting manufacturing and fairness dictates the need to disclose and not deceive the consuming public. Platinum-clad, platinum-filled, platinum-plated, platinum-coated, or platinum overlay products should not in any way be allowed to give the impression that they are in fact “platinum products”. The fact that such a process is used need not necessarily be disclosed as long as there are no markings that might give an incorrect impression as to what they are. Rhodium plated 18k white gold carries an 18k stamp with no reference to any rhodium content. This is not unfair or deceptive. Yet if it connoted any PGM reference it might have the capacity to misinform and deceive.

Our conclusion is that there is confusion today because of the omission of how to mark content of non PGM metals. Guidelines had already covered the need to enumerate the percentage content of PGM alloys so at the very least, the same standard of enumerating the specific content and total variety of mixture of alloy would follow as a logical extension (although as a practical reality you might be asking for the Gettysburg Address on the head of a pin and a working knowledge of the periodic table of elements). Unfortunately, we believe disclosure of content of such products would nonetheless be likely to cause confusion, deception, and unfair competition due to the consumer’s inability to distinguish the features and properties of newer alloyed alternatives with the purer traditional metal.

We believe the FTC should not be including this new product under the premium umbrella of a platinum marked product. Historically, the FTC would never have allowed it to be stamped that way. Its simple omission from mention speaks to the point that its existence was not anticipated under the former parameters in the marketplace. That market conditions or technology often cause re-examination and reconsideration is to be expected.

However, those with a new product to bring to market ought not to be able to piggyback their launch by creating confusion with the very same product with which they hope to gain a price-competitive advantage. There may be no consumer disadvantage to the alternative, but that has yet to be determined. The FTC ought not to be in the business of helping to launch or at least give its "blessing" to the new metal by including it in a category that by their own historic guidelines had to be purer or at least was anticipated to be alloyed with more expensive PGM group alloys and higher percentage content of platinum. New products need their own product launch campaigns. Claims of durability, scratch resistance, tarnish, hypoallergenicity, among other claims are the responsibility of those that bring the product to market to prove, not the FTC to verify "empirically".

New products are launched with new names. Marketing is the responsibility of the vendor. New names and marketing campaigns should preclude creating confusion in the consumer's mind. Confusion and deception must be avoided especially in such a difficult purchase for the consumer to understand in all the different varieties of metals, alloys, weights, quality grades in a purchase that is so "blind" no matter how hard they try to educate themselves. Platinum has always connoted a premium purchase and because of its higher intrinsic costs and overall weight of product, manufacturers generally stay true to the premise of "premium" in respect of diamond quality and skilled labor. Hopefully the FTC will continue to uphold the essence of purity they safeguarded all these years.

In conclusion, we believe the FTC should not permit products composed of between 500 and 850 ppt pure platinum and no other PGM to be marked or promoted as platinum. Rather, in order to avoid consumer confusion, such products should be called something which highlights why it was created rather than to confuse it with the product it was meant to replace.

Respectfully submitted,

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