

Jewelry Guides, Matter No. G711001

Tiffany & Co. respectfully submits these comments to the Federal Trade Commission (FTC) in response to its February 26, 2008 Federal Register Notice seeking comments on its proposed amendment to the platinum section of the FTC Guides for the Jewelry, Precious Metals and Pewter Industries.

Tiffany and Company is a manufacturer and retailer of fine platinum jewelry, headquartered in New York, New York and founded in 1837. Its parent company, Tiffany & Co., is a New York Stock Exchange Company (NYSE: TIF).

Summary: We do not agree with the proposed amendment to the Guides. It overturns long-standing industry behavior and consumer understanding, ignores the realities of the marketplace, and imposes disclosure requirements that are extremely difficult to implement, and not able to be meaningfully understood by consumers. We believe that the existing Guides are understood by the industry to only permit the use of the word 'platinum' in connection with alloys that have at least 500 ppt Platinum with a total of 950 ppt platinum group metals (PGM) and no more than 50 ppt base metals. Consumers have a similar understanding to the point that platinum products are 'pure'. It should be noted that we welcome alternative platinum alloys to the marketplace, as long as they are named so as to avoid confusion, avoiding the word 'platinum' or the root 'plat'.

Specifically:

1. 'Platinum' should be reserved for those alloys with 50 ppt or less base metal, as is done by all major manufacturers and retailers today (our knowledge). Acknowledging that the FTC has found that the Guides neither prohibit nor allow the word 'platinum' to describe alloys of platinum with greater than 50 ppt base metal, the cure should not be to amend the Guides to permit it. The cure should be to amend the Guides to prohibit it, as most understand it today, conforming to long-standing tradition. Consider the question, how much platinum must a product have in order to call it platinum (and have industry and consumer acceptance)? Today the answer is 500 ppt, with 950 PGM. But could it be 400 ppt, or 200 ppt platinum, with or without any PGM? Many years ago, the FTC decided that 500 ppt with 950 PGM signaled sufficient platinum to qualify a product as "platinum". The question before us is can a new alloy containing 500 ppt platinum and more than 50 ppt base metal be described as 'platinum' and have the appropriate meaning to a consumer? Our answer is no, and disclosures indicating the absence of PGM, and presence of base metals, cannot be the cure because those disclosures are incomprehensible. Our statement is that products containing less than 950 PGM are not platinum products; the lesser PGM content cannot be disclosed away.
2. Disclosure of each alloying component in full (no abbreviations) would not work, that is, not achieve consumer knowledge (research submitted to the FTC) and also is impractical, that is, the information would not fit on the product itself (our knowledge).
3. Harmonization with international standards is very important commercially, therefore the Guides should not be amended to bring disharmonization. Though it is acknowledged that the main purpose of the FTC is to prevent consumer deception, the FTC should not take actions to place manufacturers in a situation where their products are not salable overseas. The realities of the marketplace - post enactment of the

proposed amendment - will place manufacturers in a competitive position where products of differing platinum composition will be need to be sold in various countries. The proposed alloys of less than 950 PGM will not be allowed for sale in most European countries and may well injure our reputation.

4. Consumer research submitted to the FTC shows that consumers regard platinum to be pure. Therefore, the FTC proposal permitting base metal alloys would lend itself to deceptive practices. This is because disclosures of alloy composition do not actually inform a consumer who already 'knows' that platinum products are pure. The purpose of the consumer's visit to the store, internet or catalog is to buy a product of an industry standard metal which they believe they already understand to their satisfaction, not to analyze its alloy composition and compare performance attributes. The FTC proposed amendment, therefore, ignores the realities of the marketplace.

Regarding the FTC-posed questions, Tiffany has answered questions 1 – 7, the most relevant to our business and expertise:

1. Should the Commission amend the platinum section of the Jewelry Guides by adopting the proposed amendment?

Tiffany: No. The industry understands the Guides to say that the word 'platinum' is reserved for alloys with 950 or more platinum group metals (PGM). As the FTC has found that the Guides neither allow nor prohibit using the word 'platinum' for alloys with less than 950 PGM, then the optimum solution is to clarify the language in the Guides to make it clearer that the word 'platinum' is only for alloys with 950 PGM, not allow the new situation.

2. Should the Commission revise the language in the proposed amendment to provide for additional disclosures to ensure that consumers are not misled, for example, by including additional, more detailed disclosures regarding how products that contain at least 500 ppt, but less than 850 ppt, pure platinum, and that do not contain at least 950 parts per thousand PGM, differ from traditional platinum products in terms of purity and rarity?

Tiffany: No. the Guides need no revision on more disclosures; they are clear, understandable and doable. The proposed amendment requiring disclosure of each alloying component in full (no abbreviations) would not work, that is, not achieve consumer knowledge. Consumer research has shown that customers don't understand what the words/symbols even mean, and therefore disclosing that the "platinum" piece has a certain percentage of copper (for example) and a certain percentage of cobalt (for example) is not instructive. Next, the proposed amendment requiring full, unabbreviated alloy composition is impractical, that is, the required information would not fit on the product itself since abbreviations are not allowed. Should the required information be placed on an accompanying tag, it will of course be separated on the first use, negating its value for later appraisers (won't be able to determine value of metal), repair jewelers

(won't be able to match solder or torch technique to the piece) and subsequent intending buyers (won't be able to determine value of metal, should they be educated on the point). Lastly, the reality of the marketplace is that the purpose of the consumer's visit to the store, internet or catalog is to accomplish the purchase of a product, not to analyze the alloy composition and performance attributes of an industry standard metal which they believe they already understand to their satisfaction. The FTC proposed amendment, therefore, ignores the realities of the marketplace.

3. Should the Commission revise the language in the proposed amendment to state that the disclosures should be physically attached to the jewelry product?

Tiffany: The proposed amendment should not be enacted as stated above. The manner of attachment of the disclosure is irrelevant to the issue of the consumer's ability to understand the practical meaning. They are purchasing a thought-to-be industry-standard material.

4. Should the Commission revise the language in the proposed amendment to provide that marketers need only make the third disclosure that the platinum/base metal alloy may not have the same attributes or properties as traditional platinum products, if they represent expressly or by implication that such product has one or more of the same attributes or properties as traditional platinum products (i.e., a triggered disclosure)?

Tiffany: the proposed amendment should not be enacted as stated above. Customer research has shown that customers understand 'platinum' to be pure, and to have certain desirable attributes. Since customer research has also shown that customers don't understand the meaning of disclosures of alloying components, it follows that they won't understand the meaning of the impact that those alloying components have on the desirable attributes.

5. Is there a specific word or phrase that could be used to describe products that contain at least 500 ppt, but less than 850 ppt, pure platinum, and that do not contain at least 950 parts per thousand PGM, that would adequately convey that such products differ from traditional platinum products?

Tiffany: Not to our knowledge. We believe that any product fitting the alloy description above should be creatively and individually named by the manufacturer, that is, a brand name. The use of the word 'platinum' should be reserved for products containing 950 ppt PGM.

6. What, if any, additional disclosures are necessary to explain that a product that contains at least 500 ppt, but less than 850 ppt, pure platinum, and that does not contain at least 950 parts per thousand PGM, may not have the same attributes as traditional platinum products?

Tiffany: There are no additional disclosures that would work at the retail counter. This is the basis of the reason that we feel that the proposed amendment is unworkable. Our experience has shown that consumers who are in the process of buying a platinum product, feel as though they understand the product's makeup (platinum is pure) and characteristics (hypoallergenicity and others) and are there (typically in a rush) to decide based on issues such as style and fit, not a chemistry discussion of alloy makeup. Again, the reality of the marketplace would show that the proposed amendment's disclosure requirements would have a very confusing outcome, possibly leading one to ask, "well, is it platinum or not?" Indeed, the consumer may be baffled and frustrated enough in attempting to understand the disclosure discussion to walk away and avoid purchasing the platinum product.

7. The proposed amendment provides that marketers disclose the full composition of the platinum/base metal alloy using full, unabbreviated names and the percentage of each metal. Other provisions in the platinum sections of the Jewelry Guides provide for compositional disclosures using parts per thousand. Will the use of percentages for this disclosure confuse consumers?

Tiffany: Yes. The percentage composition disclosure will not assist the consumers to achieve understanding of the actual meaning of the impact of the alloy, as it relates to their understanding of what platinum is. Since consumer research submitted to the FTC shows that consumers know platinum to be pure, the likely effect of the disclosures is to be the consumer question, "is this platinum or not?" The proposed amendment should not be enacted.