

STANDARD GUIDANCE

(COP 26) Product Disclosure

A. Definitions and applicability

Product disclosure in the jewellery industry concerns proper and accurate disclosure of all relevant information about jewellery products, including diamond, treated diamond, synthetic, simulant, gold and platinum group metals products.

Representation includes illustrations, descriptions, expressions, words, figures, depictions or symbols shown in a manner that may reasonably be regarded as relating to the jewellery product. Representations, particularly to the final consumer, must be truthful and accurate.

Selling includes offering for sale, exposing for sale, displaying in such a manner as to lead to a reasonable belief that the product so displayed is intended for sale. For avoidance of doubt, this includes the accepted industry practice of “memo”, the practice of consigning goods to clients for pre-arranged periods for potential sale.

Advertising includes directly or indirectly promoting the sale or use of a product.

A **treated diamond** has undergone a process to enhance its quality.

A **synthetic** is a diamond that has been man-made, rather than mined, but has the same physical properties.

A **simulant** is a non-diamond material that is used to imitate the appearance of a diamond.

Sources:

- *Summarised from RJC Code of Practices (2013)*
- *The World Jewellery Confederation (CIBJO) – The Blue Books*
www.cibjo.org/index.php?option=com_content&view=article&id=270&Itemid=261

The **Product Disclosure** section of the COP is applicable to Facilities which handle diamond and/or gold and/or platinum group metals products.

B. Issue background

Product disclosure within the jewellery industry depends on honesty and transparency about the nature and quality of products being bought and sold. It is of particular importance to the gold, platinum group metals and diamond supply chain, since jewellery is often a high value discretionary purchase. End consumers frequently have limited technical knowledge of the articles they are buying and rely on the advice of sellers. New technologies, such as for the treatment of stones, creation of synthetic and simulant stones and development of new alloys, are making the supply chain and consumer market even more complex.

To protect consumers and to assist the gold and diamond industry, industry guidelines and legal requirements in individual countries have been established in the following areas:

- Gold assaying, quality marking or hallmarking to indicate fineness;
- Diamond grading for larger stones through independent gemmological laboratories; and
- Standards of terminology and classification for the communication of product attributes.

Misinformation about articles sold, at any level of the supply chain through to the end consumer, poses a significant risk to the reputation of individual companies and the industry as a whole. At a company level,

failure to disclose all relevant information, or false statements about articles sold, exposes a Member to risk of expulsion from industry organisations and loss of trade.

There is also a substantial legal risk. Selling diamond and/or gold and/or platinum group metals jewellery articles without disclosing full and accurate information about the product or providing misleading information, even unknowingly, is illegal under most jurisdictions. Offenders can face penalties including fines and prison sentences.

C. Key regulations

International standards

The main international standards for product disclosure and representations have been developed by industry organisations as part of a self-regulatory approach. The World Jewellery Confederation, CIBJO, hosts the Blue Books: publications outlining terminology, classification and ethical guidelines for diamonds and precious metals (see the Diamond Book and Precious Metals Book respectively). CIBJO Blue Books are considered an important standard for product disclosure and, while voluntary, are directed to wholesalers, suppliers, manufacturers and retailers at all points in the trade internationally. The standards are designed to apply to all methods of marketing and sales and both direct and indirect assertions about the products.

In 2008, the International Diamond Council launched new Rules for Grading Polished Diamonds. Since their publication, the IDC rules have been recognised by CIBJO and become the reference point for clear diamond terminology aimed at benefiting consumer confidence in diamonds. The revised IDC rules include terminology that broadens the range of descriptors that can be used for gem-quality diamonds that have been created in laboratory or factory, and to date have been referred to as "synthetic." This revision has been reflected in the 2008 RJC Code of Practices.

The World Gold Council (WGC) hosts information about international standards for gold fineness. There are also detailed summaries of national requirements for gold jewellery fineness and marking online. The WGC publishes several handbooks and manuals on gold jewellery manufacture, including technical guidance on assaying and refining gold.

National law

Relevant national law and regulations will vary according to the country concerned, but tend to be in the areas of consumer protection, trading standards or fraud. Most countries have laws regulating trading and consumer marketing that make it unlawful to wrongly describe any goods in terms of their composition, physical characteristics, or history. In addition, some countries have specific laws or regulations relating to gemstones and precious metals. For example, the United States Federal Trade Commission (FTC) has Guides for the Jewelry, Precious Metals and Pewter Industries. Members should use the terms set down in national legislation, and in the case of no Applicable Law, follow the Code of Practices.

Legal obligations may cover knowingly, as well as unknowingly, providing wrongful or misleading information in the sale of goods. Members should ensure that they maintain up to date knowledge of the relevant legislation in all their areas of operation.

Note – if there is a conflict with RJC provisions and Applicable Law, then the law has precedence. Any such situations should be alerted to RJC so that consistent advice to Members and Auditors can be developed.

Box X: "Black Diamond"

Although black diamond may occur in nature, polished diamonds that are back in colour are very likely to have been treated. Some marketers may assume this is commonly known, and may refer to them simply as "black diamond" without providing disclosure of the treatment. This is improper.

Whenever a diamond has been treated, it must be disclosed. As stated in the CIBJO Blue Book, specific reference to the particular treatment must be provided, and the description shall be as conspicuous and immediately preceding the word(s) diamond or synthetic diamond as the case may be.

D. Suggested implementation approach

- **COP 26.1: Representations:** *Members shall not make any untruthful, misleading or deceptive representation, or make any material omission in the selling, advertising or marketing of any Diamond, Synthetic or Simulant, and/or any Gold, and/or any Platinum Group Metals Jewellery Products.*

Points to consider:

- A misrepresentation or material omission involves the deliberate avoidance or misstatement of information that could influence a purchaser's decision, and may be illegal.
 - Members should ensure they are aware of the Applicable Law regarding false and misleading representations, particularly for consumers.
 - A representation can take many different forms, such as symbols and depictions in addition to words, and may be express or implied.
 - A representation can be made in many different types of mediums, including the Internet.
 - Sales staff should be trained to ensure they are aware of legal obligations and do not engage in misleading or deceptive verbal representations about products being offered for sale.
 - Whether information is material can depend on the business context – for example material information for a retail consumer could be different from material information for a professional engaged in a business to business transaction. If judgement is necessary to determine whether information is material, such as in a business to business context, consideration may be given to whether omission of the information would be inconsistent with accepted business practices in the sector or jurisdiction.
- **COP 26.2: Disclosure:** *Information on the physical characteristics of Diamonds, Synthetics or Simulants, Gold and/or Platinum Group Metals shall be disclosed in compliance with Applicable Law. Unless a conflict with Applicable Law exists, Members shall apply the following requirements to support relevant disclosure about physical characteristics.*

Points to consider:

- Implementing the **Legal Compliance** provision should include a review of relevant product disclosure standards and regulatory requirements.
- Evidence of a lack of familiarity with the Applicable Law on the part of senior managers, particularly if the business is engaged in retail sales, will indicate a much higher risk of non-compliance and should be of concern to auditors.
- Disclosure is required by the seller, even if the purchaser has not requested it.
- Full written disclosure should be conspicuously included on all commercial documents in clear and plain language so as to be readily understandable to the purchaser. The disclosure should immediately precede the description of the diamond, treated diamond or synthetic and be equally conspicuous to that description.
- A policy should be established on product disclosure that explains relevant laws, regulations and industry standards, including penalties for non-compliance.
- Relevant employees should receive training consistent with the policy, and ensures, where appropriate, knowledge of:
 - Diamond identification through the '4 Cs'
 - Applicable Gold Quality Marks and Hallmarks identification;
 - CIBJO Blue Book (or equivalent standards) for disclosure and communication.
- Procedures should be in place for proper information disclosure in all product transactions, including purchases. Procedures should include a clear statement on how to proceed should a supplier fail to provide appropriate product information.
- Members should establish, where applicable, procedures for the review and approval of sales and marketing materials to ensure they comply with the law and with the specific requirements in the Code of Practices, and do not contain any information that could be misleading or deceptive.
- Record keeping is a key element to product disclosure and integrity, especially at the stage where resources are being processed (gold refined, or diamonds cut, for example). Members should clearly identify who is responsible for implementing and checking record-keeping procedures.

a. Gold and Platinum Group Metals: *The fineness Gold or Platinum Group Metal shall be accurately disclosed. The description of fineness or content shall be equally conspicuous as the word “Gold”, or the Platinum Group Metal, or abbreviation, and any Quality Marks used shall be applied in accordance with Applicable Law or industry standards.*

Points to consider:

- If Quality Marks are applied, it must indicate the quality of the Gold or Platinum Group Metal and be in accordance with Applicable Law or relevant international standards.
- The description of fineness would not be required if Applicable Law allows for it not to be stated; for example some jurisdictions do not require the fineness to be described for Gold that is 24k and Platinum that is more than 950 per thousand.

b. Treated Diamonds: *Treated Diamonds shall be disclosed as either “Treated” or with specific reference to the particular Treatment. The description shall be equally conspicuous as the word(s) “Diamond”. Any special care requirements that the Treatment creates shall be disclosed.*

Points to consider:

- Any term that is designed to disguise that Treatment has occurred, or to imply that a Treatment is part of the normal polishing process, or that misleads the consumer in any way, must not be used. For example, the term “improved” must not be used to describe a Treated Diamond.
- The placement of the description of the treatment is not prescribed in the Code of Practices, providing the required words appear in association with, and are equally conspicuous as word(s) “Diamond” or “Synthetic”. However check Applicable Law for any additional requirements.
- Names of firms, manufacturers or trademarks are not to be used in connection with Treated Diamonds, unless such names are clearly succeeded by the word “Treated” as defined in this section or are otherwise equally conspicuously and prominently disclosed as Treated.

c. Synthetic Diamonds: *Wholly or partially Synthetic diamonds shall be disclosed as “laboratory created”, “laboratory grown”, and/or “Synthetic” and the description shall be equally conspicuous as the word “diamond”.*

Points to consider:

- The term “cultured” is not an acceptable description for Synthetic diamonds.
- Any term that is designed to disguise the fact that a diamond is Synthetic or that misleads the consumer in any way must not be used.
- The term “diamond” without qualification always means a natural diamond.

d. Simulants: *Simulants that imitate the appearance of Diamonds shall be disclosed as the mineral or compound that it is.*

Points to consider:

- Any term that is designed to disguise the fact that a stone is a Simulant or that misleads the consumer in any way must not be used.
- The words “real”, “genuine” or similar to describe any Simulant would be misleading and must not be used. The word “natural” to describe any Simulant must not be used, unless the Simulant is a naturally occurring mineral or compound.
- Note this provision applies to Simulants that are for sale. Simulants used for promotional purposes / display, for example in retail environments, do not require an associated disclosure unless they are offered for sale.

e. Diamond Quality – Polished Diamonds: *When describing the weight, colour, clarity or cut of Diamonds and Synthetics, this shall be in accordance with the recognised guidelines appropriate to the particular jurisdiction.*

Points to consider:

- If the descriptions do not include weight, colour, clarity or cut - for example for small diamonds set in jewellery - it is not necessary for all diamonds to be individually described in accordance with these rules. However when the weight, colour, clarity or cut are described, then the description must be in accordance with International Diamond Council Rules for Grading Polished Diamonds.

- The word “flawless” or “perfect” must not be used to describe:
 - any Diamond that discloses flaws, cracks, inclusions, carbon spots, clouds, internal lasering, or other blemishes or imperfections of any sort when examined under a corrected magnifier at 10-power, with adequate illumination by a person skilled in Diamond grading; or
 - any article of Jewellery that contains any Diamonds that do not meet the definition of “flawless” or “perfect”.
- The terms “brilliant”, “brilliant cut” or “full cut” must not be used to describe, identify or refer to any Diamond except a round Diamond that has at least 32 facets plus the table above the girdle, and at least 24 facets below it.

f. Product Health and Safety Information: Any relevant health and safety information about Diamond, Synthetic, Gold and/or Platinum Group Metals Jewellery Products sold by Members to end consumers shall be disclosed.

Points to consider:

- In its natural solid or metallic state, gold is inert and considered non-hazardous. However it is commonly used in varying levels of purity and can be sold in jewellery in fineness ranging from 9 carat (usually 37.5% Au w/w) to 24 carat (usually 99.9% Au w/w). On skin, gold may cause contact dermatitis, while ingestion is generally non-toxic.
- Gold jewellery that is formed of alloys containing nickel has been documented to cause nickel allergies. Nickel allergies usually appear first in the form of a red itchy rash, normally wherever nickel is in close contact with the skin. While nickel is a common component in many metal alloys found in everyday life, an allergy is most often triggered by metal jewellery containing nickel. It is thus sometimes referred to as ‘jewellery dermatitis’. Treating nickel allergy requires affected people avoiding contact with anything containing nickel.
- Diamonds in their natural crystalline state are the hardest known natural material and chemically inert. The only potential health hazards that may arise are through treatments designed to improve the stone’s gemological characteristics and value.
- Irradiation of diamonds is a treatment used to enhance colour. Irradiation can make stones slightly radioactive, and they are usually set aside for a period of time to allow the radioactivity to decay. Distribution of irradiated stones usually undergoes a regulated process to check that radioactivity is below regulatory limits.

Check:

- ✓ Do you know the applicable regulatory requirements and disclosure standards for diamonds, gold and platinum group metals products?
- ✓ Can you show the auditor how you check that sales and marketing materials comply with the law and with the specific requirements in the Code of Practices?
- ✓ Do you have appropriate record-keeping and training to support proper product disclosure?

E. Further information

The following websites have further information on the issue of product disclosure:

- International Diamond Council (IDC) – IDC Rule Book
www.internationaldiamondcouncil.org/books/idc-rule-book/idc-rule-book
- In the Loupe – Advertising Diamonds, Gemstones and Pearls (US)
www.lawpublish.com/ftc-gem.html
- Jewelers Vigilance Committee
www.jvclegal.org
- The World Jewellery Confederation (CIBJO) – The Blue Books
www.cibjo.org/index.php?option=com_content&view=article&id=270&Itemid=261
- The World Jewellery Confederation (CIBJO) – Special Report: Precious Metals Commission reviews changing legislation in European Union (2013)

congress2013.cibjo.org/CIBJO%20Special%20Report%20(Precious%20Metals%20Commission)%202013.pdf

- U.S. Government - Federal Trade Commission - Decision on petition regarding use of term 'cultured' for gemstones (2008)
www.ftc.gov/opa/2008/07/jvc.shtm
- U.S. Government - Federal Trade Commission – Jewelry Guides and Information (2011)
www.ftc.gov/os/statutes/jewelryjump.shtm
- World Gold Council (WGC)
www.gold.org/