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FEDERAL TRADE COMMISSION

16 CFR PART 23

Guides for the Jewelry, Precious Metals, and Pewter Industries: Public Roundtable

AGENCY: Federal Trade Commission (“FTC” or “Commission”).

ACTION: Announcement of public roundtable.

SUMMARY: The Federal Trade Commission (“FTC” or “Commission”) will hold a public roundtable on June 19, 2013 to examine possible modifications to the FTC’s Guides for the Jewelry, Precious Metals, and Pewter Industries (“Jewelry Guides” or “Guides”). This Notice describes the issues the roundtable will examine and invites comments regarding the questions to be addressed.

DATES: The roundtable will be held on Wednesday, June 19, 2013, from 9:00 a.m. to 1:00 p.m. at the FTC’s Satellite Building Conference Center, located at 601 New Jersey Avenue NW., Washington, DC 20001. Prior to the roundtable, the Commission will publish an agenda and further information on its Web site. Comments will be accepted until June 5, 2013.

Registration Information: The roundtable is open to the public, and there is no fee for attendance. For admittance to the Conference Center, all attendees will be required to show a valid photo identification, such as a driver’s license. The FTC will accept pre-registration for this roundtable. Pre-registration is not necessary to attend, but is encouraged so that we may better plan this event. To pre-register, please email your name and affiliation to lkoss@ftc.gov. When you pre-register, we will collect your name, affiliation, and your email address. This information will be used to estimate how many people will attend. We may use your email address to contact you with information about the roundtable.

Under the Freedom of Information Act (“FOIA”) or other laws, we may be required to disclose to outside organizations the information you provide. For additional information,

including routine uses permitted by the Privacy Act, see the Commission’s Privacy Policy at www.ftc.gov/ftc/privacy.htm. The FTC Act and other laws the Commission administers permit the collection of this contact information for consideration and use for the above purposes.

ADDRESSES: The submission of comments is not required for attendance at the roundtable. Interested parties may file comments online or on paper by following the instructions in the Request for Comments part of the **SUPPLEMENTARY INFORMATION** section below. Write “Jewelry Guides Roundtable, 16 CFR Part 23, Project No. G711001” on your comment, and file your comment online at <https://ftcpublic.commentworks.com/ftc/jewelryguidesroundtable> by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex O), 600 Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Reenah L. Kim, Attorney, (202) 326-2272, or Laura D. Koss, Attorney, (202) 326-2890, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW., Mailstop M-8102B, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Introduction

The FTC commenced its regulatory review of the Jewelry Guides on July 2, 2012 with the publication of a **Federal Register** Notice (“2012 Notice”) seeking public comments on the Guides.¹ After review of comments received in response, the FTC has determined that a public roundtable will help it address possible revisions to the Guides. Accordingly, the Commission will hold such a roundtable on June 19, 2013.

To facilitate a productive roundtable, this announcement first provides background on the Jewelry Guides and the regulatory review process, including comments received in response to the 2012 Notice. It then provides a brief description of the issues the upcoming roundtable will explore, outlines questions to be addressed, and invites comments for further discussion of these issues.

A. Background Information

The Jewelry Guides address claims made about precious metal, pewter,

diamond, gemstone, and pearl products. 16 CFR Part 23. The Guides explain how to avoid making deceptive claims and, for certain products, discuss when disclosures should be made to avoid unfair or deceptive trade practices.²

B. Jewelry Guides Regulatory Review

The 2012 Notice commenced the decennial review of the Jewelry Guides.³ The Notice solicited public comments in response to questions about the Guides’ costs, benefits, and effectiveness. It also posed specific questions based on inquiries received by Commission staff in recent years suggesting that technological developments and related changes in industry standards and practice may affect certain provisions of the Jewelry Guides.

II. Issues and Questions for Discussion at the Roundtable

In response to the 2012 Notice, the Commission received 20 comments addressing a range of issues.⁴ Many commenters proposed revisions to

² The Commission issues industry guides to help the industry conduct its affairs in conformity with legal requirements. 16 CFR Part 17. Industry guides are administrative interpretations of the law; they do not have the force of law and are not independently enforceable. Failure to follow industry guides may result, however, in enforcement action under the FTC Act, 15 U.S.C. 45. In any such action, the Commission must prove that the act or practice at issue is unfair or deceptive in violation of Section 5 of the FTC Act.

³ To ensure that its regulations and guides continue to achieve their intended goals without unduly burdening commerce, the Commission systematically reviews its regulations and guides on a ten-year cycle; i.e., the Commission schedules its reviews ten years after implementation and ten years after the completion of each review. Since completing its last review of the Jewelry Guides in 1996, the Commission revised sections of the Guides and addressed other issues raised in petitions from jewelry trade associations. See *Federal Trade Commission: Guides for the Metallic Watch Band Industry and Guides for the Jewelry Industry: Final guides*, 61 FR 27178 (May 30, 1996); *Federal Trade Commission: Guides for the Jewelry, Precious Metals, and Pewter Industries: Final guides*, 62 FR 16669 (Apr. 8, 1997); *Federal Trade Commission: Guides for the Jewelry, Precious Metals, and Pewter Industries: Revision of the Guides for the Jewelry, Precious Metals, and Pewter Industries*, 64 FR 33193 (June 22, 1999); *Federal Trade Commission: Guides for the Jewelry, Precious Metals, and Pewter Industries: Final guides*, 65 FR 78738 (Dec. 15, 2000); *Federal Trade Commission: Guides for the Jewelry, Precious Metals, and Pewter Industries: Final Guides Amendments*, 75 FR 81443 (Dec. 28, 2010). The Commission therefore scheduled the Guides for another comprehensive review in 2011, but postponed it due to resource constraints. *Federal Trade Commission: Notice Announcing Ten-Year Regulatory Review Schedule and Request for Public Comment on the Federal Trade Commission’s Regulatory Review Program*, 76 FR 41150 (Jul. 13, 2011).

⁴ Available at <http://www.ftc.gov/os/comments/jewelryguidesreview/index.shtml>. Citations to comments below identify the commenter by name and assigned comment number.

¹ 77 FR 39201 (July 2, 2012).

various provisions of the Jewelry Guides, which the Commission is considering as part of its review. Comments in two areas merit further exploration prior to making Commission proposals: (1) The marketing of alloy products containing precious metals in amounts below the Guides' minimum thresholds; and (2) surface applications of precious metals.

A. Marketing of Alloy Products Containing Precious Metals in Amounts Below Minimum Thresholds

The 2012 Notice asked whether the Commission should amend the Jewelry Guides to provide particular guidance on how to describe non-deceptively the content of alloy products that contain precious metals in amounts below the Guides' minimum thresholds. Currently, Section 23.4 provides that it may be misleading to use the word "gold" or any abbreviation, or a quality mark implying gold content, to describe all or part of an industry product that is composed throughout of an alloy of gold that is less than 10 karats. Similarly, Section 23.6 provides that it is unfair or deceptive to mark, describe, or otherwise represent all or part of an industry product as "silver," or to use a related abbreviation, unless it is at least 925/1,000ths pure silver. Section 23.7 suggests a minimum of at least 500 parts per thousand pure platinum for use of the word "platinum" or related abbreviation to mark or describe an industry product.

Five commenters responded to the Commission's specific questions regarding the marketing of alloy products that contain precious metals in amounts below the Guides' thresholds.⁵ These commenters generally concurred that industry members should accurately describe the composition of these products to avoid consumer confusion. As one commenter pointed out, for example, complete and accurate information about a product's composition would allow consumers to make informed purchasing decisions regarding gold alloy jewelry that is not marked with a quality stamp indicating karat fineness (e.g., "9 karat"), but nonetheless resembles gold jewelry in appearance, feel, and price.⁶

Three commenters recommended revisions that would specify how to describe alloy products containing precious metals below the minimum

thresholds.⁷ The commenters differed, however, on how this might be accomplished. JTV stated that the Guides should specifically authorize the stamping of karat fineness on a gold alloy containing less than 10 karats, and permit use of the word "gold" to describe such a product. JTV further stated that, if the Guides continue to prohibit use of the word "gold," sellers should be allowed to market the alloy under a trade name, as long as the product is stamped with an accurate disclosure of karat fineness.⁸ No other commenters recommended allowing quality marks to be stamped on such products.⁹

MJJ and JVC both stated that the Guides should allow industry members to provide complete and accurate descriptions of below-standard alloy products by identifying their actual precious metal content, such as through methods other than stamping. MJJ recommended including an example of non-deceptive markings and descriptions for such products, but did not propose specific language.¹⁰ JVC recommended allowing sellers to indicate in descriptive marketing materials (e.g., advertisements, labels, tags) that a below-standard product contains a precious metal—as long as they accurately disclose the quantity of the metal by percentage.¹¹ Specifically, JVC proposed a note be added to Sections 23.4 (gold), 23.6 (silver), and 23.7 (platinum group metals) stating that, for products containing less than the minimum standard amounts, sellers may identify the product with the name of the precious metal, but only if it is preceded by the percentage of the precious metal in the product (e.g., "8% Gold + 4% Palladium," "40% Platinum," "70% Silver + 30% Copper").¹² JVC argued, however, that

sellers should not be allowed to stamp the name of the below-standard precious metal on the product itself (e.g., with a quality mark).¹³ The roundtable will help the Commission assess whether JVC's proposal would provide adequate guidance for sellers to avoid consumer deception when marketing below-standard alloy products.

B. Surface Applications of Precious Metals

Four commenters raised issues concerning the surface-layer application of precious metals on jewelry industry products.¹⁴ The current Guides discuss certain aspects of surface applications in Sections 23.4 (gold), 23.5 (vermeil), and 23.6 (silver), but do not comprehensively set specific minimum standards for the use of terms indicating a precious metal application. In some circumstances, the Guides advise that surface-platings be "of such thickness and extent of surface coverage that reasonable durability is assured,"¹⁵ or that "all significant surfaces of the product or part contain a plating or coating . . . that is of substantial thickness."¹⁶ In addition, Section 23.4(c) gives examples reflecting minimum thicknesses and weights for certain terms used to describe surface applications of gold or gold alloy.

According to the commenters, the high price of precious metals has led to an increase in products containing a surface-layer application of precious metal over a less expensive metal. The precious metals used in these surface applications include not only gold and silver, but also platinum, palladium, rhodium, and ruthenium. Commenters stated the lack of standards in the Guides for products with surface applications of a precious metal other than gold or silver creates the risk of deception and confusion. For example, one commenter notes it is common industry practice to apply a surface layer of rhodium (a white precious metal) on gold products that are marketed as white gold; the surface coating is often not disclosed even

⁷ See MJJ, Comment 560895-00009 at 4; JTV, Comment 560895-00017 at 4; JVC, Comment 560895-00027 at 4. In contrast, JEA stated that the current Guides provisions concerning precious metals are clear and concise, and do not require revision. JEA, Comment 560895-00013 at 10.

⁸ JTV, Comment 560895-00017 at 4.

⁹ Indeed, Schenk expressly opposed any revision that would allow the stamping of alloys containing less than 10 karats of gold with a quality mark implying gold content, and also opposed any revision that would allow the stamping of alloys containing below-standard amounts of silver (other than the stamping of "coin silver" on alloys comprising at least 90% silver, as provided in Section 23.6(c) of the Guides). Schenk, Comment 560895-00008 at 3. Similarly, JVC stated that it did not recommend any changes to the minimum standard amounts, and JEA stated that revisions to the Guides' provisions concerning precious metals are not needed. JVC, Comment 560895-00027 at 4; JEA, Comment 560895-00013 at 10.

¹⁰ MJJ, Comment 560895-00009 at 4.

¹¹ JVC, Comment 560895-00027 at 4.

¹² JVC, Comment 560895-00027 at 20, 39–40.

¹³ JVC, Comment 560895-00027 at 20, 39–40.

¹⁴ Sudhir Jadhav (Jadhav), Comment 560895-00011; Jewelers Vigilance Committee (JVC), Comment 560895-00027; Sterling Jewelers Inc./Richline Group, Inc. (Sterling/Richline), Comments 560895-00021 & 560895-00022; and TSI Holding Company (TSI), Comment 560895-00016.

¹⁵ See § 23.4(b)(4) (regarding use of the terms "gold plate" and "gold plated") and § 23.4(b)(5) (regarding use of the terms "gold filled," "rolled gold plate," "rolled gold plated," and "gold overlay").

¹⁶ See § 23.6(d) (regarding representations that all or part of an industry product is "plated or coated with silver").

⁵ MJJ Brilliant Jewelers (MJJ), Comment 560895-00009; Jewelers Ethics Association (JEA), Comment 560895-00013; Jewelers Vigilance Committee (JVC), Comment 560895-00027; Jewelry Television (JTV), Comment 560895-00017; and Wayne Schenk (Schenk), Comment 560895-00008.

⁶ MJJ, Comment 560895-00009 at 3.

though it may wear off over time, revealing the underlying yellow or off-white gold. Moreover, products that have insubstantial amounts of precious metal applied over a less expensive metal may be marketed at higher prices than justified.¹⁷

The commenters generally agreed the Guides should take a unified approach in providing guidance regarding surface applications of precious metals. Among other things, commenters argued such an approach would simplify the nomenclature and standards used, such as by setting explicit minimums (by weight ratio or thickness of coating, depending on the method of application) for common terms. In addition, JVC and Sterling/Richline proposed guidance that would encompass all of the precious metals used in coatings on jewelry products.¹⁸ They also proposed that, if the minimum standards are not met, the Guides should require a disclosure stating that durability of the application is not assured.

The commenters diverged, however, concerning the particulars of the proposed approach. Specifically, commenters disagreed about whether standards for certain gold electrolytic plating applications should be stated in terms of “fine gold” (which has a 23.5 karat minimum), without allowing for electrolytic applications of gold alloy (implying the presence of at least 10 karats).¹⁹ Commenters also disagreed on whether, when using the terms “plate,” “plated,” “electroplate,” and “electroplated” to describe a product with rhodium surface-plating, the Guides should specify different minimum thickness standards depending on whether the rhodium is

applied over a non-white or white metal.²⁰ In addition, one commenter recommended the deletion of “overlay” as a term that may be used to disclose the amount of precious metal in a surface application, whereas another commenter retained this term in its proposal for revising the provisions that concern gold and silver surface applications.²¹ Lastly, one commenter recommended the Guides include the term “over” in a revised provision regarding use of the terms “plate,” “plated,” “electroplate,” and “electroplated.”²² The Commission will use the public roundtable to evaluate whether any change or additional guidance is necessary to prevent consumer deception and, if so, the level of detail the Commission should include in the Guides.

III. Request for Comments

The Commission’s roundtable will address the issues raised by commenters concerning the marketing of below-standard precious metal alloys and precious metal surface applications. The Commission also invites written comments on the questions to be addressed, as outlined below:

1. JVC recommended a revision to the Guides that would allow sellers to indicate in descriptive marketing materials (e.g., advertisements, labels, tags) that a product contains a precious metal in an amount below the standard, as long as they accurately disclose the quantity of the metal by percentage. It also stated that sellers should not be allowed to stamp the name of the below-standard precious metal on the product itself with a quality mark. Does JVC’s proposal provide adequate guidance for marketers to avoid consumer deception?

(a) If so, why? If not, why not?

(b) Provide any evidence supporting your position.

2. Would stamping a quality mark on an alloy jewelry product to convey information about its precious metal content be more likely to lead to consumer deception than if such

information were included in descriptive marketing materials such as advertisements, labels, and tags?

(a) If so, why? If not, why not?

(b) Provide any evidence supporting your position.

3. Is it sufficient to disclose the precious metal content of an alloy by percentage, or are other disclosures or qualifications necessary to avoid consumer deception?

(a) Why or why not?

(b) Provide any evidence supporting your position.

4. Would consumers fully comprehend the meaning of a gold content disclosure that is stated as a percentage, rather than karats (e.g., “33% gold” versus “8 karats”)?

(a) Provide any evidence supporting your position.

5. Should the Guides address surface-layer applications of precious metals other than gold and silver (e.g., platinum, palladium, iridium, rhodium, ruthenium, or osmium)?

(a) If so, why? What guidance would be necessary to avoid consumer deception?

(b) If not, why not?

(c) Provide any evidence supporting your position.

6. Section 23.4(c)(3) of the Guides states that a marketer can mark or describe a product as “rolled gold plate,” without also disclosing as a fraction the portion of the weight of the metal accounted for by the plating in the entire article, when such plating constitutes at least 1/20th of the weight of the metal in the entire article and when the term is appropriately marked with a karat fineness designation. JVC, however, suggested that marketers should be able to describe a product as “rolled gold plate” when such plating constitutes at least 1/40th of the weight of the metal in the entire article.

(a) What amount of plating on a product described as “rolled gold plate” is necessary to assure reasonable durability of coverage?

(b) How do consumers comprehend the term “rolled gold plate”?

(c) Provide any evidence supporting your position.

7. Is the term “rolled plate” used to describe surface applications of other precious metals, such as silver or platinum group metals?

(a) If so, what amount of plating is necessary to assure reasonable durability of coverage on such products?

(b) Does the amount of plating needed to assure durability differ depending on the metals used?

(c) How do consumers comprehend the term “rolled plate” when used to describe surface applications of other precious metals?

¹⁷ JVC, Comment 560895–00027 at 12–13.

¹⁸ Specifically, JVC and Sterling/Richline recommended an approach that expressly covers surface applications of platinum, iridium, palladium, ruthenium, rhodium, and osmium, in addition to gold and silver. JVC, Comment 560895–00027 at 13–14; Sterling/Richline, Comments 560895–00021 & 560895–00022 at 2. TSI focused on gold and silver, and did not discuss surface applications of other precious metals. TSI, Comment 560895–00016 at 2–3. Similarly, Jadhav focused solely on the issue of gold plating over silver, without referring to other precious metals. Jadhav, Comment 560895–00011 at 1–2.

¹⁹ Sterling/Richline recommended that all standards for electrolytic plating applications of gold (as reflected in proposed guidance regarding use of the terms “plate,” “plated,” “electroplate,” “electroplated,” “heavy electroplate,” “heavy electroplated,” and “vermeil”) be stated in terms of “fine gold”; similarly, Jadhav recommended that gold plating over sterling silver only be permitted for gold greater than 23 karats. Sterling/Richline, Comments 560895–00021 & 560895–00022 at 1–2; Jadhav, Comment 560895–00011 at 1. By contrast, the JVC proposal provides for electrolytic surface applications of gold alloy. JVC, Comment 560895–00027 attach. at 9.

²⁰ JVC’s proposed guidance provided a minimum thickness of three millionths of an inch. JVC, Comment 560895–00027 attach. at 10. By contrast, Sterling/Richline proposed minimum thickness standards of three millionths of an inch for an application of rhodium over non-white metal, and two millionths of an inch for an application over white metal. Sterling/Richline, Comments 560895–00021 & 560895–00022 at 3.

²¹ TSI included “overlay” in its recommendations regarding gold and silver surface applications. TSI, Comment 560895–00016 at 2. JVC stated it did not address “overlay” in its proposed revisions to the Guides because the term is superfluous. JVC, Comment 560895–00027 at 15.

²² See Sterling/Richline, Comments 560895–00021 & 560895–00022 at 4. No other commenters discussed use of the term “over.”

(d) Provide any evidence supporting your position.

8. The current Guides do not address the term “bonded.” JVC stated this term “indicates a durable product with a mechanically applied application of gold or gold alloy over a base of sterling silver that is at least 1/40th of the weight of the article,” and proposed that use of the term also be permitted for surface applications of precious metals other than gold.

(a) Is the term “bonded” used to describe surface applications of other precious metals, such as silver or platinum group metals?

(b) What amount of plating on a product described as “bonded” is necessary to assure reasonable durability of coverage?

(c) Does the amount of plating needed to assure durability differ depending on the metals used? If so, how does it differ?

(d) How do consumers comprehend the term “bonded”?

(e) Provide any evidence supporting your position.

9. The current Guides do not address the term “clad.” JVC recommended marketers state a product is “[precious metal] clad” when the applied precious metal is at least 1/20th of the weight of the article.

(a) What amount of plating on a product described as “clad” is necessary to assure reasonable durability of coverage?

(b) Does the amount of plating needed to assure durability differ depending on the metals used? If so, how does it differ?

(c) How do consumers comprehend the term “clad”?

(d) Provide any evidence supporting your position.

10. Should the Guides continue to provide guidance on use of the terms “flushed,” “washed,” “overlay,” “Duragold,” “Diragold,” “Noblegold,” “Goldline,” or “layered gold”?

(a) If so, why? If not, why not?

(b) How do consumers comprehend these terms?

(c) Provide any evidence supporting your position.

11. Sterling/Richline suggested that standards for certain terms used to describe gold electrolytic plating applications (“plate,” “plated,” “electroplate,” “electroplated,” “heavy electroplate,” “heavy electroplated,” and “vermeil”) should be stated in terms of “fine gold,” which has a 23.5 karat minimum. Do the current Guides provisions regarding these terms, which refer to platings or coatings of “gold” or “gold alloy of not less than 10 karat fineness” create consumer confusion or cause consumer injury?

(a) If so, how? What is the injury to consumers?

(b) Provide any evidence supporting your position.

12. Should the Guides advise marketers to disclose that the durability of a surface application of precious metal is not assured if suggested thickness or weight minimums are not met?

(a) If so, why? If not, why not?

(b) Would the issuance of guidance calling for such disclosure affect the costs and benefits of the Guides for consumers and businesses, particularly small businesses? If so, how?

(c) Provide any evidence supporting your position.

13. To the extent not addressed in your previous answers, please explain whether and how the Commission should revise the Guides to prevent consumer deception with respect to the marketing and sale of jewelry industry products that have a surface-layer application of precious metal.

Instructions for Filing Public Comments

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before June 5, 2013. Write “Jewelry Guides Roundtable, 16 CFR Part 23, Project No. G711001” on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at <http://www.ftc.gov/os/publiccomments.shtml>. As a matter of discretion, the Commission tries to remove individuals’ home contact information from comments before placing them on the Commission Web site. Because your comment will be made public, you are solely responsible for making sure your comment does not include any sensitive personal information, such as anyone’s Social Security number, date of birth, driver’s license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure your comment does not include any sensitive health information, such as medical records or other individually-identifiable health information. In addition, do not include any “trade secret or any commercial or financial information which is obtained from any person and which is privileged or confidential,” as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information

such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you must follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c).²³ Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. Accordingly, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at <https://ftcpublishcommentworks.com/ftc/jewelryguidesroundtable> by following the instructions on the web-based form. If this Notice appears at <http://www.regulations.gov>, you also may file a comment through that Web site.

If you file your comment on paper, write “Jewelry Guides Roundtable, 16 CFR Part 23, Project No. G711001” on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex O), 600 Pennsylvania Avenue NW., Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

Visit the Commission Web site at <http://www.ftc.gov> to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before June 5, 2013. You can find more information, including routine uses permitted by the Privacy Act, in the Commission’s privacy policy at <http://www.ftc.gov/ftc/privacy.htm>.

By direction of the Commission.

Donald S. Clark,
Secretary.

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²³ In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c), 16 CFR 4.9(c).