

*Canadian
Guidelines with Respect to the Sale and
Marketing of Diamonds, Gemstones
and Pearls*

Revised Edition 2009

Table of Contents

	PAGE
Preamble _____	4
Scope _____	4
Application _____	4
Misuses of Terminology _____	5
Language _____	5
Geographic Origin _____	5
Care & Maintenance _____	5
Warranties & Guarantees _____	5
Sealed Packaging and Warranties _____	6
Appraisal Definition _____	6
Disclosure _____	6
Section D Diamond Guidelines _____	7
D1 Diamond _____	7
D2 Natural _____	7
D3 Treatment/Enhancement _____	8
D4 Synthetic/Laboratory Grown/Created _____	8
D5 Composite/Assembled _____	9
D6 Artificial/Imitation/Simulated _____	9
D7 Units of Measurement _____	9
D8 Colour _____	10
D8.1 Fancy Colour _____	10
D9 Clarity _____	11
D10 Cut _____	11
D10.1 Quality/Make _____	11
D10.2 Style/Shape _____	12
D11 Fluorescence _____	13
D12 Authentic/Real/Genuine _____	13
D13 Reproduction/Replica _____	13
Section G Gemstones _____	14
G1 Gemstone _____	14
G2 Treatment or Enhancement _____	15
G3 Natural _____	15
G4 Synthetic/Laboratory Grown/Created/Cultured _____	15
G5 Organic _____	16
G6 Composite/Assembled/Laminated _____	16
G7 Artificial/Imitation/Simulated _____	16
G8 Reconstructed/Reconstituted _____	17
G9 Units of Measurement _____	17
G10 Colour _____	18
G11 Clarity _____	19
G12 Cut _____	19

G12.1	Quality/Make	_____	19
G12.2	Style/Shape	_____	19
G13	Proportion	_____	20
G14	Finish	_____	20
G15	Phenomenon	_____	20
G16	Perfect	_____	21
G17	Authentic/Real/Genuine	_____	21
G18	Reproduction/Replica	_____	21
Section P	Pearls	_____	22
P1	Natural Pearl	_____	22
P2	Cultured Pearl	_____	22
P3	Pearl Varieties	_____	23
P3.1	Cyst Pearl	_____	23
P3.2	Black Pearl	_____	23
P3.3	Blister Pearl	_____	23
P3.4	Conch Pearl	_____	23
P3.5	Freshwater	_____	23
P3.6	Keshi	_____	23
P3.7	Mother-of-Pearl	_____	23
P3.8	Oriental Pearl	_____	24
P3.9	Saltwater Pearl	_____	24
P3.10	Seed Pearl	_____	24
P4	Geographic Origin	_____	25
P5	Composite/Assembled	_____	25
P5.1	Mabe	_____	25
P6	Artificial/Imitation/Simulated	_____	25
P7	Nacre	_____	25
P8	Lustre	_____	26
P9	Orient	_____	26
P10	Overtone	_____	26
P11	Colour	_____	26
P12	Spotting/Blemishing	_____	27
P13	Unit of Measurement	_____	27
P14	Shape	_____	27
P15	Drilled	_____	28
P16	Cut	_____	28
P17	Treatment/Enhancement	_____	28
P18	Flawless	_____	29
P19	Perfect	_____	29
P20	Authentic/Real/Genuine	_____	29
P21	Reproduction or Replica	_____	29
Appendix 1	Extracts from the <i>Competition Act</i>	_____	30
Appendix 2	Extracts from the <i>Weights and Measures Regulations</i>	_____	33
Appendix 3	Jewellery Appraisal Guidelines- Minimum Acceptable Standards- 2008	_____	38

Preamble

The Canadian Guidelines with Respect to the Sale and Marketing of Diamonds, Gemstones and Pearls were revised in 2003 by a Jewellers Vigilance Canada Inc. (www.jewellersvigilance.ca) special committee in consultation with industry members and the Competition Bureau (www.cb-bc.gc.ca) and with reference to other internationally recognized standards. These guidelines were originally developed in 1994 by a Jewellers Vigilance Canada committee in cooperation with the Canadian Jewellers Association, the Canadian Gemmological Association, the Quebec Professional Gemmologists Association, the Canadian Advertising Foundation and the federal government represented by Industry Canada to provide for voluntary compliance rather than a regulatory compliance program.

The Diamond Guidelines were adopted by Consumer & Corporate Affairs Canada in 1986 and were revised when they were incorporated with the Coloured Gemstones and Pearls Guidelines adopted by Industry Canada in 1994.

These present Guidelines (Revised Edition 2009) are presented in three sections: Diamonds, Gemstones and Pearls.

Scope

The definitions and misuses of terminology outlined in these Guidelines were developed in consideration of the *Competition Act* (a portion of which can be found in *APPENDIX 1* of these Guidelines) that contains prohibitions against false and misleading representations. Adherence to the nomenclature contained in this document will assist jewellery industry members in their obligation to ensure compliance with the legislation and to provide consistent and meaningful information to consumers. The Guidelines are for assistance only and should not be considered as binding on the Commissioner of Competition.

All methods of making representations, including printed or broadcast advertisements, written or oral representations, audio-visual promotions, Internet and illustrations are within the general scope of these Guidelines.

The examples contained in these Guidelines are for the purpose of illustration only and are not intended to provide an exhaustive list of acceptable or prohibited practices. The Competition Bureau facilitates compliance with the law by providing legally binding written opinions subject to fees. Advertisers are encouraged to request an opinion on whether the implementation of a proposed business plan or practice would raise an issue under the *Competition Act*. A specific opinion will be based on information provided by the requestor and will take into account previous case law, prior opinions and the stated policies of the Competition Bureau.

Finally, readers should note that the misleading representations and deceptive marketing practices provisions of the *Competition Act* comprise only a portion of the relevant law in Canada. Most provinces and other federal departments and agencies also administer legislation dealing with advertising and marketing practices. These Guidelines do not provide information on this other legislation.

Application

In general, these Guidelines apply to anyone promoting, directly or indirectly, the supply, use, description, identification, sale of or trading in any gem, carving, jewel, item of jewellery or work of art containing diamond, gemstone, pearl and related materials.

Misuses of Terminology

It is contrary to the purpose of these Guidelines to:

A. make a representation that does not conform in all respects to these Guidelines in the selling, advertising, or distribution of any substance defined in these Guidelines. Representation includes illustrations, descriptions, expressions, words, figures, depictions or symbols shown in a manner that may reasonably be regarded as relating to the substance. 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. Advertising includes directly or indirectly promoting the sale or use of a product.

B. make any misleading or deceptive statement, representation or illustration relating to origin, formation, production, condition or quality of any substance defined in these Guidelines.

C. declare the identity of differing diamonds, gemstones and/or pearls in an article in any order except in descending order by weight;

D. identify, refer to or describe an article containing more than one substance by referring to only one substance.

LANGUAGE

It is contrary to the purpose of these Guidelines to use any word, existing or created from any language, to misrepresent the authenticity of a diamond, gemstone and/or pearl. (Unacceptable examples: *Herkimer diamond* for quartz; *faux emerald*; *Mont Blanc ruby* for a rose quartz; *faux pearl*)

GEOGRAPHIC ORIGIN

It is contrary to the purpose of these Guidelines to make a statement as to the geographic origin of a diamond, gemstone and/or pearl unless its origin can be substantiated. For Canadian diamond claims please refer to the *Voluntary Code of Conduct for Authenticating Canadian Diamond Claims* at www.canadiandiamondcodeofconduct.ca.

CARE & MAINTENANCE

It is contrary to the purpose of these Guidelines not to advise all consumers purchasing diamonds, gemstones and/or pearls as to their care, cleaning and maintenance.

WARRANTIES & GUARANTEES

Specific legislation regarding warranties/guarantees is laid out in the *Competition Act*, section 74.01 (1) (b) (c) (see *APPENDIX 1* of these Guidelines) as well as provincial/territorial legislation. Industry should be aware that in the selling, advertising, offering for sale or distribution of any substance, that every statement or reference as to identity or quality or value of a substance constitutes a warranty/guarantee by the vendor. This principle applies in every instance and includes circumstances where the vendor quotes, makes reference to, or

provides access to copies of the independent opinion of a third party, even if the vendor claims to be in dispute with the quoted opinion.

SEALED PACKAGING AND WARRANTIES

It is contrary to the purpose of these guidelines to limit a consumer the opportunity to make or obtain an independent examination of any substance by delivering it in a sealed container under a warranty that becomes void if the seal is broken.

APPRAISAL

An appraisal is an expert unbiased opinion as to identity, composition, qualities and values usually embodied in a document which is the official record of the item. All appraisals should be prepared in accordance with the *Jewellery Appraisal Guidelines – Minimum Acceptable Standards*, Revised Edition 2008. (Link available at www.jewellersvigilance.ca or see *Appendix 3*)

It is contrary to the purpose of these guidelines to use an appraisal value as a selling tool.

DISCLOSURE

Purchasers of diamonds, gemstones and/or pearls (both consumers and trade) should be advised that some are treated by methods that duplicate natural processes, are often undetectable by standard gemmological techniques and are stable and permanent. The vendor must always provide to the purchaser information regarding any treatment that may have been applied to the substance offered for sale.

Section D

Diamond Guidelines

Note: These Guidelines do not address the sale and marketing of rough diamonds.

D1 DIAMOND

Definition:

A naturally occurring crystalline carbon mineral in the isometric (cubic) crystal system with a hardness of 10 on Mohs' scale, specific gravity of approximately 3.52 and a refractive index of approximately 2.42 and can be found in many colours.

Misuses of Terminology:

It is contrary to the purpose of these Guidelines to:

A. identify, refer to or describe as a *diamond*, any substance that has been either partly or wholly created through human intervention no matter what basic material or methods are used, unless the word synthetic, laboratory grown, created, composite, assembled, artificial, imitation, or simulated (as appropriate) immediately precedes the word *diamond*. Neither word shall be given greater prominence or emphasis than the other, nor may they be separated in any way, such as with an asterisk or other symbol that makes reference to a footnote explanation;

B. use the word *diamond* together with any geographic, historic or adjectival qualifier to describe, identify or refer to any substance that is not a diamond. (Unacceptable examples: quartz as *Herkimer diamond*, hematite as *Black Alaskan diamond*);

C. use any word or phrase that incorporates, is a variation of, sounds similar to, or could be mistaken for the word *diamond*, including the use of such a word or phrase as all or part of a registered trademark, unless the word(s) *synthetic diamond*, *laboratory grown diamond*, *created diamond*, *composite diamond*, *assembled diamond*, *artificial diamond*, *imitation diamond* or *simulated diamond* immediately precedes or follows the word or phrase. No word(s) shall be given greater prominence or emphasis than the other(s), nor may they be separated. (Unacceptable examples: *diamonite*, *diamonique*. Acceptable examples: *diamondine imitation diamond*, [*trademark name*] *simulated diamond*)

D2 NATURAL

Definition:

A substance that has been formed completely by nature without human intervention during the formation process.

Misuses of Terminology:

It is contrary to the purpose of these Guidelines to use the term *natural* if the substance has been created in whole or in part through human intervention during the formation process.

D3 TREATMENT/ ENHANCEMENT

Definition:

Any process other than cutting, polishing or inscribing that alters the colour and/or clarity and/or durability of a diamond.

Misuses of Terminology:

It is contrary to the purpose of these Guidelines to refer to a diamond without the use of the term *treated* or *enhanced* if the diamond has been altered by any treatment other than cutting, polishing or inscribing. (Examples of treatments or enhancement: laser drilling, colour alteration, tinting, coating, irradiating, heating, the use of any type of bombardment or by the introduction or the infusion of any foreign substance)

When a diamond is treated or enhanced the word *treated* or *enhanced* must immediately precede the word *diamond* and no word shall be given greater prominence or emphasis than the other, nor may they be separated. (Acceptable example: *clarity enhanced diamond*)

Alternately, terms naming the treatment method or process (with or without any trademark or patent name) shall immediately precede the word *diamond* instead of the word *treated* or *enhanced*. The name of the treatment process shall be given equal prominence and emphasis to the word *diamond*, and they may not be separated. (Acceptable examples: *[Company/Brand name] fracture filled diamonds, laser drilled diamond, high pressure, high temperature (HPHT) treated diamonds*)

D4 SYNTHETIC/LABORATORY GROWN/CREATED

Definition:

A substance that has been produced completely or partially through human intervention. Its physical, chemical and optical properties correspond to its naturally occurring counterpart.

Misuses of Terminology:

It is contrary to the purpose of these Guidelines to use the words *real*, *genuine*, or *natural* to describe a synthetic, laboratory grown, or created diamond. The word *synthetic*, *laboratory grown*, or *created* can only be used when the substance's physical, chemical and optical properties correspond to those of a diamond. For such substances, the word *synthetic*, *laboratory grown*, or *created* must be placed immediately preceding the word *diamond* and neither word(s) shall be given greater prominence or emphasis than the other(s), nor may they be separated. (Acceptable examples: *laboratory grown diamond, [company name] synthetic diamond, [manufacturer's name] created diamond*. Unacceptable example: *cultured diamond*)

D5 COMPOSITE/ASSEMBLED

Definition:

A manufactured substance resulting from the assembling of two or more parts, at least one of which is diamond.

Misuses of Terminology:

For composite or assembled substances, the word *composite* or *assembled* must immediately precede the word *diamond*, and neither word shall be given greater prominence or emphasis than the other, nor may the words be separated. The component parts of a composite or assembled diamond must be disclosed. (Acceptable example: *composite diamond with cubic zirconia*)

D6 ARTIFICIAL/ IMITATION/ SIMULATED

Definition:

A substance that has a superficial similarity to and appearance of a diamond without possessing its chemical composition, physical (including optical) properties and/or crystal structure.

Misuses of Terminology:

For artificial, imitation, or simulated substances, the word *artificial*, *imitation*, or *simulated* must immediately precede the word *diamond* and neither word shall be given greater prominence or emphasis than the other, nor may the words be separated. (Acceptable example: *imitation diamond, diamondine imitation diamond, [trademark name] simulated diamond*)

D7 UNITS OF MEASUREMENT

Definition:

Note 1: The rules in this section “Units of Measurement” apply with equal import to diamonds, simulated diamonds and synthetic diamonds.

Note 2: See *APPENDIX 2* of these Guidelines for a listing of the acceptable measurement tolerances, proposed and current.

- a. The weight of a diamond is expressed in carats (symbol ct) to at least two decimal places or by a fraction. One metric carat equals 200 milligrams (0.20 grams).
- b. The dimensions of a diamond are expressed in millimetres (mm) to at least two decimal places.

Misuses of Terminology:

It is contrary to the purpose of these Guidelines to:

- A. misrepresent the weight or dimensions of any diamond or group of diamonds;
- B. represent the weight of a diamond or group of diamonds by a fraction unless the weight meets or exceeds the equivalent decimal carat weight. (Example: a diamond described as half

carat must weigh at least 0.50 ct);

C. represent a weight declaration of any diamond or group of diamonds in any unit other than the carat without also expressing the weight in carats as appropriate. Additional units of measurement as prescribed by the Weights and Measures Act and Regulations may be used providing they are not of greater prominence than the carat declaration;

D. use the plural *carats* or *cts* in reference to any weight that is not greater than 1.00 ct. (Unacceptable example: *0.17 carats*);

E. represent the weight of all diamonds contained in an article unless the representation is immediately followed by the words *total weight* in full so as to indicate clearly that the weight shown is that of all the diamonds in the article and not that of the centre, or the largest, or of a single diamond;

F. represent the total weight of all diamonds and other gems contained in an article unless the representation is accompanied with equal emphasis and prominence by the total separate weight (s) of each variety or species of gem. (Unacceptable example: *gem and diamond cluster ring, total gem weight 1.00 ct*);

G. represent the weight of any diamond where such weight is less than 1.00 carat without preceding the decimal point with a zero of equal size and prominence to the other numerals. (Acceptable example: *0.25 ct*. Unacceptable example: *.25 ct*);

H. use the term *carat* or the symbol *ct* in a context where it could be presumed to refer to either karat weight or precious metal quality. (Unacceptable example: *10 cts diamond bracelet*. Acceptable example: *diamonds of 5.00 cts total weight in 10K gold bracelet*);

I. represent the dimensions of any diamond or group(s) of diamonds in terms of any unit other than metric i.e. millimetres;

J. state the weight of any diamond(s) weighing less than 0.01ct total

K. reference grain or grainer as a unit of measurement at the retail level for consumers. (Note: grain or grainer is acceptable and regularly used in the diamond production industry but is generally used for rough diamonds).

D8

COLOUR

Definition:

An indication of the presence or absence or degree of hue of a diamond determined by visual comparison to diamonds of known colour grade determined under normalized light (5500 Kelvin).

D8.1

FANCY COLOUR

Definition:

Coloured diamonds that have a unique and distinct colour.

Misuses of Terminology:

It is contrary to the purpose of these Guidelines to represent the colour of a diamond in any terms other than those found in an internationally recognized diamond grading system. [Some examples: Gemological Institute of America (GIA), American Gem Society (AGS), Scandinavian Diamond Nomenclature (SCAN.DN), the World Jewellery Confederation (CIBJO)]. Such terms can only be applied to diamonds in which the colour conforms to the standards of that system.

D9 CLARITY

Definition:

An indication of a qualitative grade of a diamond based on an analysis of the size, number, position and nature of internal characteristics and external characteristics visible at ten-power magnification (exclusive of colour and phenomena).

Misuses of Terminology:

It is contrary to the purpose of these Guidelines to:

- A. represent the clarity of a diamond in any terms other than those based on corrected ten-power magnification and found in an internationally recognized system. (Some examples: GIA, AGS, SCAN.DN). Such terms can only be applied to diamonds in which the clarity of the diamond conforms to the standards of that system;
- B. use the term flawless/loupe-clean as an indication of quality or desirability of clarity for any diamond unless it conforms to the standards of the above mentioned international systems;
- C. describe as a diamond any diamond, other than a fancy coloured diamond, that has a clarity grade lower than “I-3” unless the phrase “below recognized clarity grading standards” precedes or follows the word diamond and no word(s) or phrase(s) shall be given greater prominence and emphasis than the other(s), nor may they be separated.

D10 CUT

Definition:

Cut may refer to quality/make of cut or style/shape of cut, as delineated below:

D10.1 QUALITY/MAKE

Definition:

The quality of work in the cutting and/or polishing of a diamond. It takes into account all three factors of proportion, symmetry and polish (facet surface condition) and their effect on light return in the form of fire/dispersion (rainbow colours), brilliance (brightness) and scintillation (sparkle).

Misuses of Terminology:

It is contrary to the purpose of these Guidelines to:

A. use any symbols, words or other indications of quality or desirability of cut found in an internationally recognized diamond cut grading system unless the quality/make of the diamond conforms to the standards of that system;

B. use the terms *properly cut, proper cut well-made, good make, well proportioned, well finished, well polished* or representation of similar meaning to describe any diamond that is asymmetrical and/or poorly proportioned and/or poorly polished, detracting from the brilliance of the diamond.

C. make a representation that a diamond possesses any special characteristics of brilliancy and/or dispersion resulting from any consideration other than the quality/make as defined in section D10.1;

D. make any representation regarding quality/make without due consideration of each and every one of: proportions, polish and symmetry.

E. use the word *perfect* or any variation of the word to describe, identify or refer to any attribute of any diamond. (Unacceptable examples: *a perfect gem, perfectly polished, perfect make*)

D10.2 STYLE/SHAPE

Definition:

The distinctive or characteristic design shape and/or arrangement and number of facets into which a diamond is cut and/or polished. (Some common examples include: *marquise shape brilliant, pear shape brilliant, baguette, triangular brilliant* and *round brilliant*.)

Misuses of Terminology:

It is contrary to the purpose of these Guidelines to:

A. specify a *style/shape* to which the diamond does not conform;

B. indicate *style/shape* rather than *quality* of cut in reference to the four C's of colour, clarity, cut and carat weight;

C. use the name of a *style/shape* alone to describe, identify or refer to a diamond. (Unacceptable examples: *brilliant, baguette*. Acceptable examples: *brilliant cut diamond, baguette cut diamond*).

D. specify an outline shape to which the diamond does not conform;

E. represent the name of the shape of a diamond as its style of cut. (Unacceptable examples: *square cut diamond, round cut diamond*. Acceptable examples: *square princess cut diamond* or *round brilliant cut diamond*).

D11 FLUORESCENCE

Definition:

A luminescent optical phenomenon that can affect the appearance of a diamond. It has a descriptive value and should be expressed as one of the following as seen under long wave UV (365nm) light:

None
Slight
Medium
Strong

Misuses of Terminology:

It is contrary to the purpose of these Guidelines to make any representation regarding a phenomenon that the diamond referred to does not exhibit.

D12 AUTHENTIC/ REAL/ GENUINE

It is contrary to the purpose of these Guidelines to use the word *authentic*, *real*, *genuine* or a similar term, to describe, identify or refer to any substance made entirely or partially through human intervention. (Unacceptable example: *genuine synthetic diamond*, *authentic[brand name] synthetic diamond*)

D13 REPRODUCTION/ REPLICA

It is contrary to the purpose of these Guidelines to use *reproduction*, *replica* or a similar term to describe, identify or refer to a synthetic or artificial/imitation/simulated substance unless it is a replica of a famous-named diamond that is reproduced in size, shape and appearance. The component material(s) should be specified. No word(s) shall be given greater prominence or emphasis than the other(s), nor may they be separated. (Acceptable example: *glass replica of the Hope Diamond*)

Section G Gemstones

Note: For the purposes of these Guidelines the term gemstone refer to all gemstones that are not diamonds or pearls.

G1 GEMSTONE

Definition:

A naturally occurring mineral or organic substance that has generally been cut and/or polished and possesses beauty, rarity, durability and value. (Note: For the purpose of these Guidelines, gemstone(s) will be used when referring to gem(s) or gemstone(s)).

Misuses of Terminology:

NOTE: The term *semi-precious* should not be used in any context.

It is contrary to the purpose of these Guidelines to, without qualification (appropriate disclosure), identify, refer to or describe as a gemstone species or variety:

- A. any substance that has been synthesized, either partly or wholly through human intervention, no matter which basic material or methods are used;
- B. any substance composed of two or more parts that are assembled, cemented or otherwise joined by any artificial method;
- C. substances that have been altered by coating, filling, dyeing, coloured oiling, diffusion or any other treatment;
- D. any substance that has undergone treatment or enhancement that is unstable or impermanent in normal wear and maintenance;
- E. any substance that, as a result of treatment, takes on the appearance of a more valuable untreated gemstone. (Unacceptable examples: diffusion-treated corundum referred to as *ruby*, opal triplet referred to as *opal*. Acceptable example: heat-treated ruby referred to as *ruby*);
- F. any substance that is not of the species or variety described. (Unacceptable examples: citrine as *topaz*, serpentine as *jade*);
- G. any geographic, historic or other qualifier that refers to a gemstone that is not of the species and variety described. (Unacceptable example: brown quartz as *Smoky Topaz*);
- H. any gemstone in association with an asterisk or other device that makes reference to a separate explanation of the fact that the article is a treated, synthetic, composite/assembled or artificial/imitation/simulated stone;

I. the names of minerals or gemstones as descriptive attributes of colour. (Unacceptable examples: *topaz quartz, ruby spinel*).

G2 TREATMENT/ ENHANCEMENT

Definition:

Any process other than cutting and polishing that alters the colour, clarity, phenomena and/or durability of a gemstone.

Misuses of Terminology:

It is contrary to the purpose of these Guidelines to refer to a gemstone without the use of the term *treated* or *enhanced* if the gem has been altered by irradiation, diffusion, coating, filling, dyeing, stabilizing, coloured oiling or by any treatment that is detectable, unstable or impermanent in normal wear and maintenance or in recutting or repolishing. For such gemstones the word *treated* or *enhanced* or the type of treatment method or process (with or without any trademark or patent name) must immediately precede the correct gemstone name and no word shall be given greater prominence or emphasis than the other, nor may they be separated. (Acceptable examples: *colour enhanced lapis lazuli, irradiated chrysoberyl, surface diffused topaz*)

Note:

Purchasers of gemstones (both consumers and trade) should be advised that many gemstones are treated by methods that duplicate natural processes, are often undetectable by standard gemmological techniques and are stable and permanent. The vendor must be prepared to provide to the purchaser, information regarding any treatment that may have been applied to the substance offered for sale.

The colourless oiling of emeralds and the heat treatment of rubies and sapphires are widespread and not routinely disclosed.

G3 NATURAL

Definition:

A substance that has been formed completely by nature without human intervention during the formation process.

Misuses of Terminology:

It is contrary to the purpose of these Guidelines to use the term *natural* if the substance has been created through human intervention during the formation process.

G4 SYNTHETIC/LABORATORY GROWN/CREATED

Definition:

A substance that has been created completely or partially through human intervention. Its

physical, chemical and optical properties essentially correspond to its naturally occurring counterpart.

Misuses of Terminology:

It is contrary to the purpose of these Guidelines to use the words *synthetic*, *laboratory grown*, or *created* unless the substance's physical, chemical and optical properties correspond to its naturally occurring counterpart. For such substances, the word *synthetic*, *laboratory grown*, or *created* must be placed immediately preceding the gemstone name and neither word(s) shall be given greater prominence or emphasis than the other(s), nor may they be separated. (Acceptable example: [*company name*] *synthetic emerald*. Unacceptable example: *cultured ruby*.)

G5 ORGANIC

Definition:

A product of animal or plant origin. (Examples: *coral*, *amber*, *ammonite* [*also see Section P*])

G6 COMPOSITE/ ASSEMBLED/ LAMINATED

Definition:

A manufactured substance resulting from the assembly of two or more parts, at least one of which is a gemstone.

Misuses of Terminology:

It is contrary to the purpose of these Guidelines to refer to composite, assembled or laminated substances unless the word *composite*, *assembled* or *laminated* immediately precedes the word *gemstone*, and neither word shall be given greater prominence or emphasis than the other, nor may the words be separated. (Acceptable example: *assembled opal triplet*)

G7 ARTIFICIAL/ IMITATION/ SIMULATED

Definition:

A substance that has a superficial similarity to the effect and appearance of a gemstone without possessing its chemical composition, physical (including optical) properties and/or crystal structure.

Misuses of Terminology:

It is contrary to the purpose of these Guidelines:

A. to use the word *gemstone* to describe any substance that is artificial, imitation or simulated;

B. to use a gemstone name to describe any substance that is artificial, imitation or simulated unless the words *artificial*, *imitation* or *simulated* precede the gemstone name and neither word shall be given greater prominence or emphasis than the other, nor may the words be separated. (Acceptable example: *simulated ruby*)

G8 RECONSTRUCTED/ RECONSTITUTED

Definition:

An artificial substance manufactured by melting, bonding or fusing particles or fragments of the named material to form a coherent whole. The term *reconstituted* is synonymous with the terms *reconstructed* and *bonded*.

Misuses of Terminology:

The word *reconstructed* or *reconstituted* must immediately precede the correct name of the gemstone that has been reconstructed, and neither word shall be given greater prominence or emphasis than the other, nor may the words be separated. (Acceptable example: *reconstituted turquoise*)

G9 UNITS OF MEASUREMENT

Note 1: The rules in this section “Units of Measurement” apply with equal import to all gemstones, simulated gemstones and synthetic gemstones.

Note 2: See *APPENDIX 2* of these Guidelines for a listing of the acceptable measurement tolerances.

- a) the weight of a gemstone is expressed in carats (symbol ct) to at least two decimal places or by a fraction;
- b) the dimensions of a gemstone are expressed in millimetres (mm) to at least two decimal places.

Misuses of Terminology:

It is contrary to the purpose of these Guidelines to:

- A. misrepresent the weight or dimensions of any gemstone or group of gemstones;
- B. represent the weight of any gemstone or group of gemstones by a fraction unless the weight meets or exceeds the equivalent decimal weight. (Example: a ruby described as a half carat must weigh at least 0.50 carat);
- C. represent the weight of any gemstone or group of gemstones in any unit other than the carat without also expressing the weight in carats as appropriate. Additional units of measurement as prescribed by the *Weights and Measures Act* and *Regulations* may be used, providing they are not of greater prominence than the carat declaration;
- D. use the plural *carats* or *cts* in reference to any weight that is not equal to or greater than 1.01 cts. (Unacceptable example: *0.17 carats*); Note: *In the French language the plural carats or cts is in reference to any weight that is not equal to or greater than 2.00 cts.*

E. represent the weight of gemstones contained in an article unless the representation is immediately followed by the words *total weight* in full so as to indicate clearly that the weight shown is that of all gemstones of the same variety in the article and not that of the centre, the largest or a single gemstone;

F. represent the total weight of all gemstones contained in an article unless the representation is accompanied with equal emphasis and conspicuousness by the total separate weight(s) of each variety or species of gemstone. (Unacceptable example: *ruby and diamond cluster ring, total gemstone weight 1.00 ct*. Acceptable example: *0.75 ct ruby and 0.25 carat total weight[cttw] diamonds*.);

G. represent the weight of any gemstone where such weight is less than 1.00 carat, without a zero preceding the decimal point in equal size and prominence to the other numerals in such a weight statement. (Acceptable example: *0.25 ct*. Unacceptable example: *.25 ct*);

H. use the term *carat* or the symbol *ct* in a context where it could be presumed to refer to precious metal quality. (Unacceptable example: *10 ct emerald bracelet*. Acceptable examples: *emeralds of 5.00 cts total weight in 10K gold bracelet*);

I. represent the dimensions of any gemstone or group(s) of gemstones in terms of any unit other than metric (millimetres or centimetres);

J. state the weight of any gemstone(s) weighing less than 0.01 ct total.

G10

COLOUR

Definition:

The combination of hue, intensity (or saturation) and tone (or brightness) without reference to other optical phenomena.

Misuses of Terminology:

It is contrary to the purpose of these Guidelines to:

A. make any false or misleading representations regarding quality or desirability of colour;

B. use any symbols, words or other indications of quality or desirability of body colour found in an internationally recognized gemstone grading system unless the colour of the gemstone conforms to the standards of that system;

C. use a geographical location when referring to the colour of a gemstone if the gemstone described does not originate from the locality specified. (Unacceptable example: *Kashmir [colour] sapphire* in reference to a stone that does not originate from Kashmir)

G11 CLARITY

Definition:

An indication of a gemstone's qualitative grade based on analysis of the size, number, position and nature of internal characteristics and external characteristics (exclusive of colour and phenomena).

Misuses of Terminology:

It is contrary to the purpose of these Guidelines to:

A. use any symbols, words or other indications of quality or desirability of clarity found in an internationally recognized gemstone grading system unless the clarity of the gemstone conforms to the standards of that system;

B. use the term flawless/loupe-clean as an indication of quality or desirability of clarity for any gemstone that discloses blemishes, inclusions or clarity faults of any kind when examined using corrected ten power magnification;

C. use the word flawless/loupe-clean or any similar term as an indication of quality or desirability of clarity for any composite/assembled/laminated or artificial/imitation/simulated substance.

G12 CUT

Definition:

Cut may refer to quality/make of cut or to style/shape of cut, as delineated below:

G12.1 QUALITY/MAKE

Definition:

The quality of work in the cutting and/or polishing of a gemstone. It takes into account orientation, polish, proportions and finish.

G12.2 STYLE/SHAPE

Definition:

Style is arrangement and configuration of surfaces on a cut and/or polished gemstone. (Examples: *square step cut*, *square princess cut*, *oval cabochon*) The shape is the outline profile of the gemstone as viewed from the top. (Examples: *round*, *oval*, *pear*, *square*)

Misuses of Terminology for G12, G12.1, G12.2:

It is contrary to the purpose of these Guidelines to:

A. use any word or phrase in reference to the quality/make/shape/style with the gemstone being described does not possess;

B. use the name of a style of cut to indicate the shape of a gemstone. The name of a style of cut alone does not describe style/shape. (Unacceptable example: *step cut*. Acceptable example: *square step cut peridot*)

A. use the name of a shape of cut alone, in the absence of a correct gemstone name, to describe, identify or refer to a gemstone. (Unacceptable example: using *pear shape* alone to describe a pear shaped garnet)

G13 PROPORTION

Definition:

The comparative relationship between various dimensions of a gemstone. In transparent faceted gemstones, proportion has a greater influence on quality/make than any other factor, but is not a complete indication of quality/make without consideration of orientation, style of cut, shape and finish.

Misuses of Terminology:

It is contrary to the purpose of these Guidelines to make any false or misleading representations regarding proportion. (Unacceptable example: *perfectly proportioned*)

G14 FINISH

Definition:

The quality of a gemstone's polish, symmetry and cut.

Misuses of Terminology:

It is contrary to the purpose of these Guidelines to use phrases such as *well-polished* or *well-finished* to describe a gemstone whose finish does not warrant such description.

G15 PHENOMENON

Definition:

An optical characteristic other than simple body colour in a gemstone. (Examples: *chatoyancy*, *asterism*, *play-of-colour*, *colour change*, *adularescence*)

Misuses of Terminology:

It is contrary to the purpose of these Guidelines to:

A. make any representation regarding a phenomenon that the gemstone referred to does not exhibit;

B. use the phenomenon name alone without the species of the gemstone as a prefix or suffix. (Unacceptable example: *cat's eye*. Acceptable example; *chrysoberyl cat's eye*)

G16 PERFECT

Misuses of Terminology:

It is contrary to the purpose of these Guidelines to use the word *perfect* or any variation of the word to describe, identify or refer to any attribute of any gemstone. (Unacceptable examples: *perfect gem, perfectly polished, perfect make*)

G17 AUTHENTIC / REAL /GENUINE

Misuses of Terminology:

It is contrary to the purpose of these Guidelines to use the word *authentic, real, genuine* or a similar term, to describe, identify or refer to any substance made entirely or partially through human intervention. (Unacceptable example: *genuine synthetic emerald*)

G18 REPRODUCTION / REPLICA

Misuses of Terminology:

It is contrary to the purpose of these Guidelines to use *reproduction, replica* or a similar term to describe, identify or refer to a synthetic or artificial/imitation/simulated substance unless it is a replica of a famous named gemstone that is reproduced in size, shape and appearance. The component material(s) must be specified. No word(s) shall be given greater prominence or emphasis than the other(s), nor may they be separated.

P1 NATURAL PEARL

Definition:

An organic formation of layers of the same material as that lining the interior surface of a mollusc's shell, secreted naturally by the mollusc when provoked by the intrusion of a foreign element into the interior of the mollusc. It has been formed completely by nature without human intervention before or during the formation process, and is unaltered by people except for cutting and/or drilling and/or polishing.

Misuses of Terminology:

It is contrary to the purpose of these Guidelines to use the term *natural*:

- A. any substance that does not conform to the definition of natural pearl as stated above;
- B. if the pearl has undergone any treatment or enhancement whatsoever other than cutting and/or drilling and/or polishing;
- C. if the substance has been partially or wholly manufactured or produced through human intervention other than drilling and/or cutting, and/or polishing. (Unacceptable example: *natural cultured pearl*)
- D. any substance composed of two or more parts that are assembled, cemented or joined by any other artificial methods

P2 CULTURED PEARL

Definition:

A nacreous gem created when a section of mantle tissue and often a nucleus, usually a sphere of mother-of-pearl, is introduced within or adjacent to living tissues of a mollusc through human intervention and is coated with nacreous layers by the mollusc. The term *cultured* shall only be used in reference to cultured pearls whichever method is used for their formation.

Misuses of Terminology:

It is contrary to the purpose of these Guidelines to use the term *cultured* unless the pearl conforms in all respects to the definition specified above. For such pearls, the word *cultured* must be placed immediately preceding the name of the pearl variety (if appropriate) and immediately followed by the word *pearl*. Neither word shall be given greater prominence or emphasis than the other, nor may they be separated. (Acceptable example: *cultured South Sea pearl*)

P3 PEARL VARIETIES

P3.1 CYST PEARL

Definition:

A pearl that has been formed within the living tissue of a mollusc and was not in contact with the mollusc's shell.

P3.2 BLACK PEARL

Definition:

A nacreous cyst pearl having a natural body colour of black to grey.

P3.3 BLISTER PEARL

Definition:

A naturally occurring convex nacreous growth formed on the interior surface of the shell of a mollusc.

P3.4 CONCH PEARL

Definition:

A non-nacreous cyst pearl formed by the giant or queen conch (*Strombus Gigas*).

P3.5 FRESHWATER PEARL

Definition:

A nacreous cyst pearl formed in freshwater molluscs.

P3.6 KESHI

Definition:

A cyst pearl, usually baroque, that forms accidentally as a by-product of the culturing process.

P3.7 MOTHER-OF-PEARL

Definition:

The iridescent material formed on the inner surface of a pearl bearing mollusc shell used for decorative or ornamental purposes.

P3.8 ORIENTAL PEARL

Definition:

A nacreous natural cyst pearl formed exclusively in saltwater molluscs.

P3.9 SALTWATER PEARL

Definition:

A cyst pearl formed by a saltwater mollusc (maybe natural or cultured).

P3.10 SEED PEARL

Definition:

A nacreous cyst pearl that is less than two millimeters in diameter.

Misuses of Terminology for P3:

It is contrary to the purpose of these Guidelines to use:

- A. the unqualified word *pearl* or the name of any variety of pearl to describe, identify or refer to any substance that is not a pearl of the variety described;
- B. the unqualified word *pearl* or the name of any composite, assembled, artificial, imitation or simulated pearl to describe, identify or refer to any substance that does not conform to the definitions in these Guidelines;
- C. the word *pearl*, or the name of any pearl or cultured pearl variety to describe, identify or refer to any substance created through human intervention unless the word *cultured*, *composite*, *assembled*, *artificial*, *imitation* or *simulated* (as appropriate) immediately precedes the pearl name. Neither word(s) shall be given greater prominence or emphasis than the other(s), nor may they be separated;
- D. the word *pearl* or the name of any pearl or cultured pearl variety, in association with an asterisk or other device which makes reference to a footnote explanation of the fact that the substance is a treated, cultured, composite, assembled, artificial, imitation or simulated pearl;
- E. the word *Oriental* to describe the quality or appearance of any substance. (Unacceptable example: *Oriental quality pearl*);
- F. the word *pearl* together with any geographic, historic or adjectival qualifier to describe, identify or refer to any substance that is not a pearl of the variety described and/or from the location described. (Unacceptable example: *Tahitian pearl* to describe black pearls not produced in Tahiti)

P4 **GEOGRAPHIC ORIGIN**

It is contrary to the purpose of these Guidelines to:

A. make a statement as to the geographic origin of a natural pearl or a cultured pearl product unless its origin can be substantiated;

B. make a statement as to the geographic origin of an artificial, imitation, or simulated pearl. (Unacceptable example: *South Sea simulated pearl*. Acceptable example: *simulated pearl*).

P5 **COMPOSITE /ASSEMBLED**

Definition:

A product resulting from the assembling of a portion of natural pearl or cultured pearl, and one or more other substances. (Example: *mabe pearl*)

P5.1 **MABE**

Definition:

An assembly incorporating a cultured blister pearl that has been cut from its shell. The original nucleus upon which it grew is removed, filled with a manufactured material, and backed by a layer of mother-of-pearl. The assembly is held together by an adhesive.

P6 **ARTIFICIAL / IMITATION / SIMULATED**

Definition:

Any substance that has a superficial similarity to the effect, colour and appearance of a natural pearl or cultured pearl and may or may not possess its physical or chemical properties.

Misuses of Terminology:

The word *artificial*, *imitation*, or *simulated* must be placed immediately preceding the pearl variety (if appropriate) and immediately followed by the word *pearl*. Neither word(s) shall be given greater prominence or emphasis than the other(s), nor may the words be separated. (Acceptable examples: *imitation pearl*, *simulated black pearl*)

P7 **NACRE**

Definition:

The organic layered material that comprises the bulk of most natural pearls, the surface of a cultured pearl and the lining of the shell of most pearl-bearing molluscs. Nacre yields the characteristic appearance of pearl and mother-of-pearl. It is composed of microscopic platelets of aragonite (a calcium carbonate) deposited parallel to the surface and bound together in a fine network of material called conchiolin.

Misuses of Terminology:

It is contrary to the purpose of these Guidelines to use the word *nacre* or *nacreous* or any similar word to describe, identify or refer to any article that does not have a surface covered by nacre.

P8 LUSTRE

Definition:

The degree of reflection of light from the surface layers or near surface layers of a pearl or cultured pearl.

Misuses of Terminology:

It is contrary to the purpose of these Guidelines to use any word or phrase in reference to the luster of a pearl or cultured pearl that indicates a level of quality it does not possess.

P9 ORIENT

Definition:

An optical phenomenon caused by the interference of light that yields iridescent rainbow colours seen in some pearls and cultured pearls.

Misuses of Terminology:

It is contrary to the purpose of these Guidelines to use any word or phrase in reference to orient that a pearl or cultured pearl does not possess.

P10 OVERTONE

Definition:

Secondary colouration related to orient that is distinct from the body colour. It may be localized.

Misuses of Terminology:

It is contrary to the purpose of these Guidelines to use any word or phrase in reference to an overtone that a pearl or cultured pearl does not possess.

P11 COLOUR

Definition:

The general body colour of a pearl or cultured pearl. (Examples: pink, white, cream, yellow, grey, black)

Misuses of Terminology:

It is contrary to the purpose of these Guidelines to use any word or phrase in reference to a

colour that a pearl or cultured pearl does not possess.

P12 SPOTTING/BLEMISHING

Definition:

Surface or subsurface irregularities.

Misuses of Terminology:

It is contrary to the purpose of these Guidelines to use any word or phrase in reference to the spotting or blemishing of a pearl or cultured pearl to indicate a level of quality it does not possess.

P13 UNIT OF MEASUREMENT

Note 1: The rules in this section “Units of Measurement” apply with equal import to all pearls or cultured pearls

Note 2: See *APPENDIX 2* of these Guidelines for a listing of the acceptable measurement tolerances.

The dimensions of pearls are expressed as follows:

- a) Millimetres (mm) are the units of measurement for individual pearls;
- b) Centimetres (cm) or inches (in.) are the units of measurement for lengths of pearl strands.

Misuses of Terminology:

It is contrary to the purpose of these Guidelines to:

- A. misrepresent any measurement of any pearl or group of pearls;
- B. represent the diameter of pearls using any term other than millimetres (mm);
- C. represent the measurement of irregularly shaped pearls unless their minimum dimensions are included;
- C. misrepresent the thickness of the nacre on a pearl.

P14 SHAPE

Definition:

The overall shape of a cyst pearl or the outline shape of a blister pearl as viewed from the top. [Examples: round, off-round, oval, pear, baroque (irregular)].

Misuses of Terminology:

It is contrary to the purpose of these Guidelines to use any word or phrase in reference to the

shape of pearls or cultured pearls to which they do not conform.

P15 DRILLED

Definition:

Having a manufactured perforation (hole) suitable for the purposes of stringing or setting into an article of jewellery. If the hole does not extend completely through and out the other side it is called *half-drilled* regardless of the depth of penetration of the hole.

P16 CUT

Definition:

Having a surface that has been sawn, ground flat or faceted.

Misuses of Terminology:

The words *sawn*, *ground* or *faceted* must immediately precede the word *pearl* or *cultured pearl*. Neither word(s) shall be given greater prominence or emphasis than the other(s) nor may they be separated.

P17 TREATMENT / ENHANCEMENT

Definition:

Any process other than drilling, bleaching, polishing, cutting, cleaning and/or faceting that alters the colour, lustre and/or durability of a pearl or cultured pearl.

Misuses of Terminology:

It is contrary to the purpose of these Guidelines to refer to a pearl or cultured pearl without the use of the term *treated* or *enhanced* if the pearl or cultured pearl has been altered by coating, dyeing, or irradiating or by any other treatment that is unstable or impermanent in normal wear and maintenance. The word *treated* or *enhanced* must immediately precede the name of the pearl variety (if appropriate) and immediately followed by the word *pearl* and no word(s) shall be given greater prominence or emphasis than the other(s), nor may they be separated;

Alternatively, the treatment method or process (with or without any trademark or patent name) shall immediately precede the correct pearl name instead of the word *treated* or *enhanced*. The name of the treatment process shall be given equal prominence and emphasis to the correct pearl name, and they may not be separated. (Acceptable examples: *dyed cultured pearl*, *irradiated black cultured pearl*)

Note:

Purchasers of pearls and cultured pearls (both consumers and trade) should be advised that most pearls have been bleached by exposure to sunlight or bleaching agents, that many

pearls have been tinted with dye, and that such treatments are usually permanent, stable and are undetectable by standard gemmological techniques. The vendor should be prepared to provide to the purchaser information regarding any treatment that is unstable or impermanent may have been applied to the pearls or cultured pearls.

P18 FLAWLESS

Misuses of Terminology:

It is contrary to the purpose of these Guidelines to use the word *flawless* or any word or quality grade of similar meaning as a description of any pearl or cultured pearl that is not entirely free of blemishes or surface irregularities.

P19 PERFECT

Misuses of Terminology:

It is contrary to the purpose of these Guidelines to use the word *perfect* or any variation of the word to describe, identify or refer to any attribute of any pearl or cultured pearl. (Unacceptable examples: *perfect pearl, perfectly drilled, perfectly round*).

P20 AUTHENTIC / REAL / GENUINE

Misuses of Terminology:

It is contrary to the purpose of these Guidelines to use *authentic, real, genuine* or a similar term, to describe, identify or refer to any pearl or cultured pearl or substance made entirely or partially through human intervention. (Unacceptable examples: *genuine cultured pearl, real mabe*)

P21 REPRODUCTION / REPLICA

Misuses of Terminology:

It is contrary to the purpose of these Guidelines to use the words *pearl* or *cultured pearl* to describe, identify or refer to a reproduction or replica. The component material(s) of the reproduction or replica should be specified. No word(s) shall be given greater prominence or emphasis than the other(s) nor may they be separated. (Acceptable example: *plastic reproduction of La Peregrina*)

APPENDIX 1

***The Competition Act*, PART VI: OFFENCES IN RELATION TO COMPETITION
subsection 52. (1) states:**

52. (1) No person shall, for the purpose of promoting, directly or indirectly, the supply or use of a product or for the purpose of promoting, directly or indirectly, any business interest, by any means whatever, knowingly or recklessly make a representation to the public that is false or misleading in a material respect.

(1.1) For greater certainty, in establishing that subsection (1) was contravened, it is not necessary to prove that any person was deceived or misled.

(1.2) For greater certainty, a reference to the making of a representation, in this section or in section 52.1, 74.01 or 74.02, includes permitting a representation to be made.

(2) For the purposes of this section, a representation that is

(a) expressed on an article offered or displayed for sale or its wrapper or container

(b) expressed on anything attached to, inserted in or accompanying an article offered or displayed for sale, its wrapper or container, or anything, on which the article is mounted for display or sale,

(c) expressed on an in-store or other point-of-purchase display,

(d) made in the course of in-store, door-to-door or telephone selling to a person as ultimate user, or

(e) contained in or on anything that is sold, sent, delivered, transmitted or made available in any other manner to a member of the public,

is deemed to be made to the public by and only by the person who causes the representation to be so expressed, made or contained, subject to subsection (2.1).

(2.1) Where a person referred to in subsection (2) is outside Canada, a representation described in paragraph (2)(a), (b), (c) or (e) is, for the purposes of subsection (1), deemed to be made to the public by the person who imports into Canada the article, thing or display referred to in that paragraph.

(3) Subject to subsection (2), a person who, for the purpose of promoting, directly or indirectly, the supply or use of a product or any business interest, supplies to a wholesaler, retailer or other distributor of a product any material or thing that contains a representation of a nature referred to in subsection (1) is deemed to have made that representation to the public.

(4) In a prosecution for a contravention of this section, the general impression conveyed by a representation as well as its literal meaning shall be taken into account in determining whether or not the representation is false or misleading in a material respect.

(5) Any person who contravenes subsection (1) is guilty of an offence and liable

(a) on conviction on indictment, to a fine in the discretion of the court or to imprisonment for a term not exceeding five years or to both; or

(b) on summary conviction, to a fine not exceeding \$200,000 or to imprisonment for a term not exceeding one year, or to both.

(6) Nothing in Part VII.1 shall be read as excluding the application of this section to a representation that constitutes reviewable conduct within the meaning of that Part.

- (7) No proceedings may be commenced under this section against a person against whom an order is sought under Part VII.1 on the basis of the same or substantially the same facts as would be alleged in proceedings under this section.

The Competition Act, PART VII.1 DECEPTIVE MARKETING PRACTICES

Section 74.01 states:

74.01 (1) A person engages in reviewable conduct who, for the purpose of promoting, directly or indirectly, the supply or use of a product or for the purpose of promoting, directly or indirectly, any business interest, by any means whatever,

- (a) makes a representation to the public that is false or misleading in a material respect;
- (b) makes a representation to the public in the form of a statement, warranty or guarantee of the performance, efficacy or length of life of a product that is not based on an adequate and proper test thereof, the proof of which lies on the person making the representation; or
- (c) makes a representation to the public in a form that purports to be
 - (i) a warranty or guarantee of a product, or
 - (ii) a promise to replace, maintain or repair an article or any part thereof or to repeat or continue a service until it has achieved a specified result, if the form of purported warranty or guarantee or promise is materially misleading or if there is no reasonable prospect that it will be carried out.

(2) Subject to subsection (3), a person engages in reviewable conduct who, for the purpose of promoting, directly or indirectly, the supply or use of a product or for the purpose of promoting, directly or indirectly, any business interest, by any means whatever, makes a representation to the public concerning the price at which a product or like products have been, are or will be ordinarily supplied where suppliers generally in the relevant geographic market, having regard to the nature of the product,

- (a) have not sold a substantial volume of the product at that price or a higher price within a reasonable period of time before or after the making of the representation, as the case may be; and
- (b) have not offered the product at that price or a higher price in good faith for a substantial period of time recently before or immediately after the making of the representation, as the case may be.

(3) A person engages in reviewable conduct who, for the purpose of promoting, directly or indirectly, the supply or use of a product or for the purpose of promoting, directly or indirectly, any business interest, by any means whatever, makes a representation to the public as to price that is clearly specified to be the price at which a product or like products have been, are or will be ordinarily supplied by the person making the representation where that person, having regard to the nature of the product and the relevant geographic market,

- (a) has not sold a substantial volume of the product at that price or a higher price within a reasonable period of time before or after the making of the representation, as the case may be; and
- (b) has not offered the product at that price or a higher price in good faith for a substantial period of time recently before or immediately after the making of the representation, as the case may be.

(4) For greater certainty, whether the period of time to be considered in paragraphs (2)(a) and (b) and (3)(a) and (b) is before or after the making of the representation depends on whether the representation relates to

- (a) the price at which products have been or are supplied; or
- (b) the price at which products will be supplied.

- (5) Subsections (2) and (3) do not apply to a person who establishes that, in the circumstances, a misrepresentation to price is not false or misleading in a material respect.
- (6) In proceedings under this section, the general impression conveyed by a representation as well as its literal meaning shall be taken into account in determining whether or not the representation is false or misleading in a material respect.

The Competition Act, PART VII.1 DECEPTIVE MARKETING PRACTICES

Section 74.1 (1) states:

- 74.1 (1) Where, on application by the Commissioner, a court determines that a person is engaging in or has engaged in reviewable conduct under this Part, the court may order the person
- (a) not to engage in the conduct or substantially similar reviewable conduct;
 - (b) to publish or otherwise disseminate a notice, in such manner and at such times as the court may specify, to bring to the attention of the class of persons likely to have been reached or affected by the conduct, the name under which the person carries on business and the determination made under this section, including
 - (i) a description of the reviewable conduct,
 - (ii) the time period and geographical area to which the conduct relates, and
 - (iii) a description of the manner in which any representation or advertisement was disseminated, including, where applicable, the name of the publication or other medium employed; and
 - (c) to pay an administrative monetary penalty, in such manner as the court may specify, in an amount not exceeding
 - (i) in the case of an individual, \$50,000 and for each subsequent order, \$100,000, or
 - (ii) in the case of a corporation, \$100,000 and for each subsequent order, \$200,000.

APPENDIX 2

Weights and Measures Legislation

These tables are used by government inspectors to verify compliance with the Weights and Measures Regulations.

Changes have been proposed and are highlighted in *italics*. All other values are already law and are not part of the amendment proposal.

Adherence to these tables does not necessarily ensure complete compliance with the Weights and Measures Legislation. Please verify applicable “Limits of Error” at the Measurement Canada website www.mc.ic.gc.ca.

1. Part X of Schedule II of the Regulations is revoked and the following substituted therefor:

1. Part X of Schedule II of the Regulations is revoked and the following substituted therefor:

**PART X
LIMITS OF ERROR FOR QUANTITIES STATED IN
METRIC UNITS OF LENGTH**

Item	Column I Stated Quantity	Column II Limits of Error
1	For thread and yarn: any length	4 % of stated quantity
2	For baler twine: any length	5 % of stated quantity
3	For rolls of fabric: individual rolls	2 % of stated quantity
4	entire lots based on a minimum sample of 10 %	1 % of stated quantity
5	For diamonds and gemstones: any length	0.02 millimetre
6	For pearls: 0 millimetres up to and including 50 millimetres	0.1 millimetre
7	greater than 50 millimetres	0.9 times the length, measured on the drilled axis, of the smallest pearl in the article of jewellery
8	For precious metals: 0 millimetres up to and including 50 millimetres	0.1 millimetre
9	greater than 50 millimetres up to 500 millimetres	1 % of stated quantity
10	500 millimetres up to and including 5 metres	5 millimetres
11	more than 5 metres	0.1 % of stated quantity
12	For other commodities: less than 3 metres	2 % of stated quantity
13	3 metres to 6 metres	60 millimetres
14	more than 6 metres	1 % of stated quantity

2. Part XI of Schedule II is revoked and the following substituted therefore:

**PART XI
LIMITS OF ERROR FOR QUANTITIES STATED IN
CANADIAN UNITS OF LENGTH**

Item	Column I Stated Quantity	Column II Limits of Error
1	For thread and yarn: any length	4 % of stated quantity
2	For baler twine: any length	5 % of stated quantity
3	For rolls of fabric: individual rolls	2 % of stated quantity
4	entire lots based on a minimum sample of 10 %	1 % of stated quantity
5	For diamonds and gemstones: any length	0.0008 inches
6	For pearls: 0 inches up to and including 2 inches	0.004 inches
7	greater than 2 inches	0.9 times the length, measured on the drilled axis, of the smallest pearl in the article of jewellery
8	For precious metals: 0 inches up to and including 2 inches	0.004 inches
9	greater than 2 inches up to 20 inches	1 % of stated quantity
10	20 inches up to and including 197 inches	0.197 inches
11	more than 197 inches	0.1 % of stated quantity
12	For other commodities: less than 10 feet	2 % of stated quantity
13	10 feet to 20 feet	2.4 inches
14	more than 20 feet	1 % of stated quantity

3. Part XIV of Schedule II of the Regulations is revoked and the following substituted therefor:

**PART XIV
LIMITS OF ERROR FOR QUANTITIES STATED BY NUMBER**

Item	Column I Stated Quantity	Column II Limits of Error
	number of articles	
1 2	For diamonds and gemstones: 0 to 1000 more than 1000	0 article 1 article for each 1000 articles
3 4	For pearls and precious metals articles: 0 to 500 more than 500	0 articles 1 article for each 500 articles
5 6 7 8	For other commodities: less than 50 from 50 to 100 more than 100 with an individual weight of 14 grams or less, or ½ ounce or less more than 100 with an individual weight of more than 14 grams, or more than ½ ounce	0 article 1 article 0.75 % of the stated quantity, rounded up to the next whole number 0.5 % of the stated quantity, rounded up to the next whole number

4. The title of Part XV of Schedule II of the Regulations is revoked and the following substituted therefor:

**PART XV
LIMITS OF ERROR FOR PEARLS, PRECIOUS METALS AND OTHER
COMMODITIES OF COMPARABLE VALUE THE QUANTITY OF WHICH IS STATED IN METRIC UNITS
OF MASS**

5. Part XVI of the Regulations is revoked and the following substituted therefor:

PART XVI
LIMITS OF ERROR FOR PEARLS, PRECIOUS METALS AND OTHER
COMMODITIES OF COMPARABLE VALUE THE QUANTITY OF WHICH IS
STATED IN CANADIAN UNITS OF MASS

Item	Column I Stated Quantity	Column II Limits of Error
	For pearls:	
	ounces	ounces
1	up to and including 1	0.00044
2	2	0.00066
3	4	0.0012
4	8	0.0022
5	16	0.0042
6	32	0.0078
7	80	0.0164
8	160	0.0291
9	212	0.0371
10	more than 212	0.0175 % of the stated quantity
	For precious metals and other commodities of comparable value:	
	troy ounces	grains
11	up to and including 1	0.2
12	2	0.3
13	5	0.7
14	10	1.3
15	20	2.5
16	50	5.6
17	100	9.4
18	200	16.8
19	more than 200	0.0175 % of the stated quantity

Where a quantity is not listed in Column I of this Part, the limits of error for that quantity shall be determined by linear interpolation.

6. Schedule II of the Regulations is amended by adding thereto, immediately after Part XVI, the following:

PART XVII
LIMITS OF ERROR FOR DIAMONDS AND GEMSTONES
THE QUANTITY OF WHICH IS STATED IN
METRIC OR CANADIAN UNITS OF MASS

Item	Column I Stated Quantity	Column II Limits of Error
1	all declarations	0.4 milligram (0.002 carats)

APPENDIX 3

**JEWELLERY APPRAISAL GUIDELINES
Minimum Acceptable Standards**

Revised Edition 2008

Table of Content

	PAGE
1. Jewellery Appraisal Guidelines - Minimum Acceptable Standards	4
2. Jewellery Appraisal Definitions	5
3. Appraisal Documentation	6
4. Value – Replacement and Fair Market	13
5. Appraised Values and the Promotion of Jewellery Products	16
6. Guide to Jewellery Descriptions for Appraisals	19
7. Appendix I – Jewellery Descriptions	23
8. Appendix II – Insurance Appraisal Checklist	33

Jewellery Appraisal Guidelines

Jewellery Appraisal Guidelines - Minimum Acceptable Standards (Guidelines). Copyright 1998, revised 2005 and 2007 by Jewellers Vigilance Canada (JVC) and Canadian Jewellers Association (CJA). Printed in Canada. All rights reserved. These Guidelines, or parts thereof, may not be reproduced in any form without written permission from the CJA and JVC.

Now available in PDF format at www.jewellersvigilance.ca or www.canadianjewellers.com.

For printed copies and/or further information about these Guidelines or the CJA's Accredited Appraiser Program (AAP) please contact the CJA at 1-800-580-0942 ext 223 or (416) 368-7616 ext 222.

Purpose of Guidelines

These Guidelines have been prepared to establish minimum acceptable standards to be used by appraisers in the preparation of jewellery appraisals.

JEWELLERY APPRAISAL GUIDELINES MINIMUM ACCEPTABLE STANDARDS

The appraiser requires a wide spectrum of knowledge, education, skills, tools and resources. In some ways the appraiser may be seen as the conscience of the jewellery industry.

The quality of an appraiser's work largely depends upon attitude and approach as well as knowledge, skills, resources and experience. These Guidelines do not attempt to address this issue.

The quality of an appraisal will depend upon its content. These Guidelines present acceptable standards for appraisal documents.

Members of the jewellery industry at all trade levels are advised that appraised values used for the purpose of promoting the sale of jewellery products may raise issues under the *Competition Act* administered and enforced by the Competition Bureau, an independent law enforcement agency of the Government of Canada that promotes and maintains fair competition in the marketplace. In that regard, the section "Appraised Values and the Promotion of Jewellery Products" on Page 15 of these Guidelines contains relevant information on how to avoid contravening the misleading representations and deceptive marketing practices provisions of the *Competition Act*.

It should be noted that under the *Competition Act*, a party who takes a representation made by somebody else and transforms it into an advertisement of his or her own, becomes responsible for the claim.

Note:

For the purposes of this document the term "jewellery" refers to gems, watches and any precious metal items.

DEFINITION OF APPRAISAL

An expert unbiased opinion as to identity, composition, qualities and values, usually embodied in a document which is the official record of the item.

An appraisal should also include a detailed description of the item using recognized terminology and grading systems.

JEWELLERY INSURANCE APPRAISAL DEFINITION

A jewellery appraisal for insurance is a comprehensive description supporting an estimate of the value to be used as the basis upon which insurance premiums will be set and should be the basis of establishing the value and limit of claim settlement at the time of an insured loss.

APPRAISAL DOCUMENTATION

The appraisal should include the following:

A. Confidentiality

The recipient of the insurance appraisal document has been informed that the appraiser's files shall be treated as confidential and that the insuring company is fully entitled to all information within the insurance appraisal and is just as entitled as the client to explanations or answers to queries about the appraisal content.

B. Credentials of Appraiser

The appraiser must define his or her professional expertise as a qualified appraiser. There are two necessary components to perform an appraisal; gemmological training and certification and valuation science training and certification.

Gemmological Training and Certification

Gemmological training and certification should be from a recognized institute or association in the area relevant to the appraised item. The most commonly recognized sources of gemmological training and certification are:

Canadian Gemmological Association

Fellow of the Canadian Gemmological Association — **FCGmA**

www.canadiangemmological.com

Gem-A, The Gemmological Association of Great Britain

Fellow of the Gemmological Association of Great Britain — **FGA**

www.gem-a.com

Gemmological Institute of America

Graduate gemologist — **GG**

www.gia.edu

Valuation Science Training and Certification

Valuation science training and certification should be from a recognized institute or association. The most commonly recognized sources of valuation science training and certification are;

American Gem Society

Certified Gemologist Appraiser — **C.G.A.**

www.ags.org

American Society of Appraisers

Master Gemologist Appraiser

www.appraisers.org

Canadian Gemmological Association

Canadian Professional Jewellery Appraising
www.canadiangemmological.com

Canadian Jewellers Association

Accredited Appraiser Program (AAP)
www.canadianjewellers.com

École de Gemmologie de Montréal Inc.

Évaluateur diplômé /Graduated Appraiser
www.ecoledegemmologie.com

International Society of Appraisers

Certified Appraiser of Personal Property — **ISA** — **CAPP**
Accredited Member — **ISA**
www.isa-appraisers.org

MasterValuer Program

Registered MasterValuer
www.mastervaluer.com

National Association of Jewelry Appraisers

Certified Master Appraiser — **C.M.A.**
www.najaappraisers.com

C. Appraiser's Warranty

The appraiser warrants that:

Diamond and coloured gemstone grading is based on an internationally recognized grading system.

The appraised item was inspected and tested utilizing all usual and minimum necessary equipment of the gem laboratory and/or documentation for the complete and thorough appraisal and identification of all properties of all components of the item.

A gem laboratory is defined as a secured area with a controlled environment for the examination and testing of gems and jewellery. The minimum necessary equipment is; microscope, refractometer, spectroscope, polariscope, metal testing equipment, heavy liquids, reference library, jewellery cleaning equipment, gem carat weight scale, gold scale, measuring devices, loupes, tweezers, appropriate illumination for diamond, coloured stone and pearl grading, fibre optic light, short wave and long wave ultraviolet illuminators, colour comparison tools and equipment for diamond, coloured gemstone and pearl grading.

Metals are appropriately marked to indicate (or were tested and found to be of) the specified purity. To the best of the appraisers knowledge watches, watch parts and accessories, are genuine parts supplied by the original vendor or manufacturer.

THE APPRAISER'S FEE IS NOT BASED ON THE ITEM'S VALUE

The appraiser should state any disclosure/limiting conditions.
(See Section J. page 10 – Disclosure/Limiting Conditions)

D. Dating of Appraisal

The appraisal must state the date on which the item was examined.

If the item was not examined by the appraiser, details must be provided as to how the description and value were determined.

e.g. - Hypothetical evaluation on a lost item based on a previous appraisal;
consultation with the insured regarding lost items.

E. Name

If the appraiser performs an appraisal directly for the end-user, the name of the person should be included in the appraisal.

If the appraiser performs an appraisal for the trade, the name of the firm may be included at the discretion of that firm.

F. Description

A complete guide to a proper jewellery appraisal description is included on Page 18. Please refer to this section for definitions and further terms used in descriptions. Any relevant conclusions as to identity, quality, quantity, or grading of a whole item or any component of the item arrived at by the appraiser should be mentioned as part of the appraisal description and information obtained by any means of analysis should be kept in notes maintained by the appraiser for future reference. Gem descriptions should conform to the rules laid out in *Canadian Guidelines With Respect to the Sale and Marketing of Diamonds, Coloured Gemstones and Pearls*” revised edition 2009.

G. Signature

The appraisal must bear the signature of the appraiser or of an authorized representative who is empowered to confirm the obligations with regard to the appraisal. The name of the appraiser must be printed.

H. Currency

The appraisal must specify the currency of the estimated value assigned to the item(s). If a single appraisal covers a large number of items, the same currency must be used throughout the appraisal.

I. Value

The appraisal must state the expert opinion of value of the item. See Page 13 for further information on Value.

J. Disclosure/Limiting Conditions

Disclosure

Gemstones are considered natural unless otherwise stated. Gemstones are assumed to be treated by processes not detectable by the standard appraising laboratory when such treatment is typical for that species and variety. Please refer to *Canadian Guidelines with Respect to the Sale and Marketing of Diamonds, Coloured Gemstones and Pearls revised edition 2007*. It is incumbent upon the appraiser to disclose any known and/or any identifiable treatments and any synthetic or imitation materials. The appraiser will disclose any supplied information that was used in the appraisal of the item.

(eg: a mounted gemstone accompanied by a loose gemstone grading report)

Limiting Conditions

Any situation or condition that may impede or limit the ability of the appraiser to conduct complete accurate analysis of gems or jewellery components.

(eg: type of setting, time limitations, lighting conditions, availability of proper equipment, hypothetical appraisals for lost items, updates of appraisals without re-examinations of the item etc.)

K. Professional and Ethical Standards

The following standards should be followed by all appraisers and indeed are appropriate guidelines for any jewellery appraiser.

1. Services Provided

- A. Examining, testing, analyzing and grading of gems, metals and jewellery merchandise;
- B. Reporting of identification, opinion of value, grade condition and damage of gems and jewellery;
- C. Consulting, advising and arbitrating with respect to jewellery industry merchandise, its acquisition and disposition.

2. Responsibilities

- A. To conduct laboratory testing and appraisal services in a manner that follows these Guidelines, and reflects credit on the professional ability and business ability of the appraiser;
- B. To supply complete and accurate information based on scientifically correct testing, careful analysis and knowledge of current market values;
- C. To maintain confidentiality of information supplied to or received from a client;
- D. To prepare and issue reports in such a manner that their validity may be relied on by any third party to whom the client may submit such a report, whether or not the third party is known to the appraiser.

3. Professional Practices

- A. Maintain integrity, dignity and professionalism in handling client's property, in preparing and issuing appraisal and/or gemmological reports, in advertising and in the appearance of their business premises;
- B. Maintain gemmological competence through continued training, practice and study of current developments in the industry;
- C. Render service only with respect to those articles and in those matters for which the appraiser is qualified by training and experience, or for which the appraiser has secured the assistance and advice of a qualified person;
- D. Avoid unwarranted criticism of others engaged in the jewellery industry and of their products;

- E. Not conceal from an appraisal client the member's interest in purchasing or selling the article submitted for appraisal, and/or interest in selling a similar or substitute article to the client;
- F. Avoid bias and prejudice in formulating and submitting opinions on quality and value;
- G. Refrain from serving more than one party with respect to the same controversy or legal action, except with the consent of all parties. This shall not preclude reporting on the same article successively to more than one client.

4. **Reports**

- A. All reports of gemmological determination and appraisals shall be submitted to the client in writing. Opinions and consultation can be verbal, provided an accurate record of the discussion is maintained, whether conclusive or not;
- B. Articles reported on shall be accurately described to permit positive physical identification and to prevent misapplication of the report;
- C. When used in a report, terms and abbreviations which have a special meaning within the jewellery industry, and grading symbols applied to diamonds or other gems, shall be defined either directly on the report or by reference to a text made available to the client;
- D. All conditions under which a report is issued shall be stated on the report. These shall include: (1) the basis for valuations on the appraisal; (2) limiting conditions under which the articles are examined, tested, or graded (such as gem mountings and mounting designs which preclude precise determination of gem weights and grades); (3) special limitations of equipment, lighting, available time and/or location of articles being examined;
- E. Reports that are tentative, partial, temporary or otherwise limited shall be so labelled;
- F. Physical arrangements of the report form and preparation of the report itself shall be designed to prevent fraudulent alteration and/or deceptive use of the report. All reports shall be addressed to a specific person, group or firm, shall be dated, and shall be signed by the appraiser who issues the report or by an authorized representative who is empowered to confirm the obligations of the appraiser, with the signature to appear in conjunction with the legibly printed or typed name;
- G. Records of services rendered and copies of reports issued to the client shall be maintained.

5. **Other**

The appraiser agrees, when necessary, to provide testimony and support conclusions of value in a court of law. All fees for testimony shall be predetermined prior to trial.

VALUE

Value is the monetary worth that an informed and willing buyer and seller would accept for the sale of an item taking into consideration the given market conditions.

REPLACEMENT VALUE

(i) **Replacement Value New** – the necessary cost to replace an item with a new one of like kind, quality and utility.

(ii) Replacement Value Comparable –the necessary cost to replace an item with the nearest equivalent item of like kind, quality, utility and age having similar wear and tear, decay or defects, and obsolescence as the appraised item.

FAIR MARKET VALUE

The dollar value that a willing buyer would pay and a willing seller would accept in an open and unrestricted market, time not being of the essence and where the parties are acting independently of each other (arms length transaction).

In Quebec jurisdiction the term “market value” is often used for “fair market value”.

LIQUIDATION MARKET

Liquidation value represents the most probable price at which an item will change hands if sold with a very important time constraint, without regard to the most appropriate market.

OTHER VALUE

There are circumstances that require other levels of value and this must be clearly defined in the appraisal document.

ARRIVING AT VALUES

The two most frequently used approaches to arriving at values are:

- (i) Cost Approach – The perceived direct costs of producing the articles (stones, metal, labour, hidden taxes, etc.) are totalled and a markup is applied to the cost.
- (ii) Market Data Approach – The systematic research in the market place to find pricing for comparable items.

In arriving at values, the appraiser must use a good range of price sources and the following is a list of sources of pricing, both general and specific:

- Wholesale dealers of coloured stones, on and off shore;
- Wholesale dealers of diamonds, on and off shore;
- Suppliers of jewellery metals;
- Suppliers of findings and mountings;
- Suppliers of finished gold items;
- Antique and vintage jewellery dealers;
- Auction Catalogues;
- Internet.
- Standardized price listings: (use as reference only, not as a sole source of information) for example:
 - Palmieri’s Market Monitor;
 - The Guide;
 - Rappaport;
 - Auction Market Resources;
 - Price lists and consultation with local suppliers (often necessary on a one by one basis with particular items);
 - Consultation with local appraisers and consultation with retailers;
 - “Window Shopping”, going out to compare prices at sources of supply on a regular basis.

BRANDS

When the item being appraised is a “branded” item and therefore trademarked (i.e. Tiffany&Co., Cartier etc...), the exact cost of replacing the item from the designer or company should be obtained.

MARKETS

The purpose and function of an appraisal determines the most appropriate market in which the appraiser will research the value. The most common markets are:

- Retail market;
- Auction market;
- Liquidation market;
- Wholesale market;
- Internet;
- Television shopping networks.

APPRAISED VALUES AND THE PROMOTION OF JEWELLERY PRODUCTS

Appraised values used for the purpose of promoting the sale of jewellery products may raise issues under the misleading representations and deceptive marketing practices provisions of the *Competition Act* administered and enforced by the Competition Bureau, an independent law enforcement agency of the Government of Canada that promotes and maintains fair competition in the marketplace.

The misleading representations and deceptive marketing practices provisions of the *Competition Act* (Footnote 1)

The *Competition Act* contains provisions addressing false or misleading representations and deceptive marketing practices in promoting the supply or use of a product or any business interest. All representations, in any form whatever, that are false or misleading in a material respect are subject to the *Competition Act*. If a representation could influence a consumer to buy or use the product or service advertised, it is material. To determine whether a representation is false or misleading, the courts consider the general impression it conveys, as well as its literal meaning.

The *Competition Act* also specifically prohibits false or misleading ordinary selling price representations. These prohibitions are aimed at protecting consumers from being misled by reference to "inflated" regular prices when products are promoted at sale prices.

False or misleading representations and deceptive marketing practices can have serious economic consequences, especially when directed toward large audiences or when they take place over a long period of time. They can affect both business competitors who are engaging in honest promotional efforts, and consumers.

Here is how jewellery appraised values could raise issues under the *Competition Act* (Footnote 2)

For many consumers, the term "appraised value" represents the estimated market value of a property on a given date, given by a qualified person. When the property is a jewellery item, the "appraised value" represents the approximate price charged by jewellery retailers in a given market at a given point in time. When "appraised values" are used by jewellers in comparative price advertising situations, for example "Diamond Rings - Appraised value \$850, A deal at only \$550", and these "appraised values" do not represent genuine market prices, an issue may be raised under the ordinary selling price provisions of the *Competition Act*. This type of representations could mislead consumers to believe that they are receiving a percentage off the market price of the item.

From a more technical point of view, the "appraised value" of an item should not be used in comparative advertising unless, in a relevant geographic market, the jewellery product has been offered for sale in good faith at the "appraised value" for a substantial period of time (more than 50% of the time in the last 6 months), OR a substantial volume of the product (more than 50%) has been sold at the "appraised value" within a reasonable period of time (12 months). In other words, in a relevant geographic market, if the items have not been offered for sale in good faith at \$850, 50% of the time or more in the 6 months prior to the making of the representation, OR if more than 50% of the items have not been sold at \$850 in the preceding 12 months, an issue under the *Competition Act* could be raised.

Issues under the *Competition Act* may also arise in non-comparative price advertising situations. For example, if a jeweller were to advertise jewellery products displaying grossly inflated "appraised values", an issue could be raised if these values are not validated in the relevant geographic market.

Jewellers often believe that they do not attract liability under the *Competition Act* when "appraised values" quoted in their advertising material are prepared by independent third parties such as jewellery appraisers. **It should be noted that under the *Competition Act*, a party who takes a representation made by somebody else and transforms it into an advertisement of his or her own, becomes responsible for the claim.** A situation might arise where both an appraiser and a jeweller could be subject to an investigation. For example, if an appraiser were to misrepresent the value of jewellery product to a jeweller, and the jeweller were then to reproduce the "appraised value" in a newspaper advertisement, both parties might be liable, although the particulars of each contravention would differ slightly. The appraiser would be liable for his or her representation to the jeweller, and the retailer would be liable for the representation in the advertisement.

What Are the Possible Penalties?

The *Competition Act* provides two adjudicative regimes to address misleading representations and deceptive marketing practices.

Under the criminal regime, certain practices are brought before the criminal courts, requiring proof of each element of the offence beyond a reasonable doubt. On summary conviction, the person is liable to a fine of up to \$200,000 and/or imprisonment for up to one year. If convicted on indictment, the person is liable to a fine at the discretion of the court and/or imprisonment for up to five years.

Under the civil regime, certain practices may be brought before the Competition Tribunal, the Federal Court or the superior court of a province and require that each element of the conduct be proven on a balance of probabilities. The court may order a person to cease the activity, publish a notice and/or pay an administrative monetary penalty. On first occurrence, individuals are liable to penalties of up to \$50,000 and corporations are liable to penalties of up to \$100,000. These amounts may double for second and subsequent occurrences.

Written opinions

The Competition Bureau facilitates compliance with the law by providing various types of written opinions subject to fees. Company officials, lawyers and others are encouraged to request an opinion on whether the implementation of a proposed business plan or practice would raise an issue under the *Competition Act*. These written opinions are binding on the Commissioner of Competition when all the material facts have been submitted by or on behalf of an applicant for an opinion and when they are accurate. A specific written opinion

will be based on information provided by the requestor and will take into account previous case law, prior opinions and the stated policies of the Bureau.

How to contact the Competition Bureau

Anyone wishing to obtain additional information about the *Competition Act*, the *Precious Metals Marking Act*, the *Consumer Packaging Labelling Act* and the *Textile Labelling Act* should contact the Competition Bureau's Information Centre at:

Telephone

Toll free: 1-800-348-5358
National Capital Region: (819) 997-4282
TDD (for hearing impaired): 1-800-642-3844

Facsimile (819) 997-0324

Address

Information Centre
Competition Bureau Canada
50 Victoria Street
Gatineau, Quebec
K1A 0C9

Web site

www.cb-bc.gc.ca

E-mail

compbureau@cb-bc.gc.ca

(1) The misleading representations and deceptive marketing practices provisions of the *Competition Act* include sections 52 to 60 contained in Part VI and sections 74.01 to 74.08 contained in Part VII.1.

(2) Specifically section 52, paragraph 74.01(1)(a) and subsection 74.01(2) of the *Competition Act*.

GUIDE TO JEWELLERY DESCRIPTIONS FOR APPRAISALS

(For a more detailed description, please refer to APPENDIX I on page 22)

1. Visual Examination

- a) Type of Jewellery including, but not limited to:
 - Ring - solitaire, cluster, band, family ring, eternity band;
 - Earrings - stud, drop, hoop;
 - Necklaces – link, bead;
 - Neck chains - link chains of various styles;
 - Bracelets - bangles, charm bracelets, link bracelets of varying styles;
 - Brooches/Pins - bar brooches, stick pins;
 - Pendants.
- b) Quantity of Piece (s)

Terms used in describing quantity of items usually include: one, single, pair, set, matching set.

c) Gender Style or Age Group

If jewellery is known to be a woman's, man's or child's style of jewellery, a reference to this may be noted.

d) Age or Antiquity

If the age or circa date of a piece of jewellery is known or can be estimated it should be indicated in the appraisal description by an indication of the approximate date of production, or by referring to the period to which it belongs: (e.g.: modern, contemporary, Art Deco, Art Nouveau, Retro, Edwardian, Victorian, etc.) The appraiser should also state whether the piece is a reproduction of a certain period if it is known.

e) Mounting:

- type of setting;
- karatage;
- colour;
- metal type;
- quality mark and trademark;
- type of manufacture;
- dimensions.

f) Gems (specify if mounted or loose):

- identification;
- shape;
- cutting style;
- dimensions in millimetres for each stone;
- colour grade or colour description (tone, saturation, hue);
- clarity grade;
- weight (individual weight of major stone(s), combined weight for secondary stones);
- cut grade.

Jade, include:

- texture or patterning;
- transparency;
- polish.

Opal, include:

- potch percentage;
- play of colours involved;
- intensity;
- pattern;
- background colour;

Pearl, include:

- cultured or natural;
- fresh water or salt water;
- shape;
- colour and overtone;
- lustre;
- nacre thickness;
- blemish;
- number of pearls;
- approximate millimetre sizing.

NOTE: If any of the above is estimated, please specify.

IN ADDITION TO THE ABOVE:

Treatment or Enhancement

Gemstones are considered natural unless otherwise stated. Gemstones are assumed to be treated by processes not detectable by the standard appraising laboratory when such treatment is typical for that

species and variety. Any detectable process other than cutting and polishing that alters the colour, clarity phenomenon and/or durability of a gem shall be disclosed.

- g) Watch, include (if available):
- description;
 - manufacturer;
 - style;
 - serial number;
 - movement description (e.g. type of movement, serial number, number of jewels, features and options);
 - case information (manufacturer, style and serial number);
 - strap/bracelet information (description, manufacturer and style number);
 - bezel and dial information;
 - crystal description.

NOTE: If watchcase is not opened, please specify.

- h) Gross weight.

NOTE: The appraisal should include any other relevant information ie: condition of item.

2. Photographs

A photograph or digital image of the item should accompany the appraisal but should not be depended upon to take the place of a detailed description. The appraisal should state if the photo or digital image is or is not to scale.

APPENDIX I JEWELLERY DESCRIPTIONS

A. MAJOR STONES

A “major gemstone” is defined as a solitary stone in an item of jewellery, or a central or focal stone in an item of jewellery in either component value or design. A “major stone” is described individually, and must be identified in terms as follows:

1. Identification:

The stone must be identified by species and correct variety name.

2. Natural, Cultured, Treated, Synthetic, Assembled, Imitation:

The nature of the gem and whether it is treated (if identifiable, including the method of treatment), natural (when it can be ascertained that no treatment has altered the colour, clarity, or phenomena in a stone), synthetic (type of synthesis if identifiable, e.g. “flame fusion” or “hydrothermal”), assembled (naming components unless these are obvious by trade conventions), or imitation.

Cultured refers to pearls only.

3. Carat Weight and Dimensions

The dimensions of the stone, expressed in millimetre measurements to at least one decimal place:

- For round stones: Minimum and maximum diameter and depth;
- For triangular stones: Base (corner to corner), altitude (side to corner) and depth;
- For other shapes: Length, width, height, depth;
- For irregular shapes: Maximum, minimum (or width perpendicular to maximum), and depth;
- For hollow stones (such as carbuncle): A thickness should also be given.

Weights of gems are to be stated, in metric carats, to two decimal points, and are to be described as estimated if they are;

Bulge factor used in estimating the weight of a coloured stone may be provided in _____ the description of a stone.

4. Shape and Type of Cut

The shape of the stone must be given: e.g. round, square, oval;

The style of cut of a stone must be given: e.g. faceted or cabochon, brilliant or _____ step;

In describing the cut of stone, the shape is to be used to qualify the style of cut; e.g. round brilliant cut, oval mixed cut, square step cut.

5. Cut

“Make”, “cut”, or “cutting grade” of any major stone will be specified, and the quality of the make of the stone must be stated in terms that are accessible to the user of the description, either by a stated internationally recognized standard, or in terms clearly explained on the appraisal. This is an important determining factor in the value of a stone and if possible should be stated. Girdle thickness and specific proportions of major stones, if possible, should also be stated.

6. Clarity

All major stones must bear a clarity grade that uses terminology used in an _____ internationally accepted system or if other terminology is used, it must be cross referenced to an internationally recognized system. The type, size and locations of the inclusions may be stated.

7. Colour

Colour must be described in terms of:

- Hue, e.g. blue, red, green, orange. Modifying hue should be included, if any is present, e.g. purplish red, yellowish green;
- Tone, in terms such as very light, light, medium light, medium, medium dark, dark, very dark;
- Intensity, in terms such as vivid, intense, strong, medium strong, medium, medium low, low (or similar terms);
- Evenness of colour, zoning, mottling, lack of colour should be described;
- Diamond colour must be stated in an internationally recognized system such as GIA D through Z and fancy, plus method of grading should be stated, e.g. GIA graded master diamonds.

8. Polish and finish may be qualitatively described in conjunction with a “cut”, or “make” grade description.

9. Any damage will be described by type and location: e.g. chipped culet, nicked girdle, surface reaching fracture, abrasions on the crown.

10. In stones in which transparency is of particular note or is unusual for the material, the transparency is to be described.

11. In phenomenal stones the phenomenon is to be described, but not limited to the following:

- Opal - Type of opal, intensity of play of colour, primary colours, secondary colours, patterns, extinguishing of play of colour;

- Pearls - Natural, cultured, number of pearls, length of strands, graduated or uniform (if in strands), size range (in half millimetre increments), shape, body colour, lustre, overtones, nacre thickness, orient, blemishing, matching;
- Colour change stones - degree of colour change, description of colours seen (with accompanying description of type of light source in which colour is seen);
- Adularescence, aventurescence, iridescence, labradorescence - centring and strength of phenomenon;
- Asterism - Number of rays, centring, sharpness, strength of star, straightness of rays;
- Chatoyancy - Centring, sharpness, strength of eye, straightness, opening and closing of eye.

B. SECONDARY STONES

Stones that are not the focal visual or value component of the item can be grouped together by type, approximate size, qualities (shape, colour, clarity), with total estimated weights provided for groupings. Descriptions will be provided as described for major stones but can be given individually or as an average for groups of matching material of similar qualities.

C. METAL, CONTENT and STAMPED MARKS

- Gold - Colours including: yellow, green, red and white;
- Karat: 9K to 24K or 375 to 999.99;
- Silver – If known, purity should be specified e.g.: 925, Sterling;
- Platinum – If known, purity and composition should be stated;
- Other – eg: but not limited to below 9K gold, gold-filled, vermeil, gold electroplating, rolled gold plating;
- Karat Stamps - if the karat stamp is not marked then the item should be tested to determine what the metal is and what karat, if gold, it is. An electronic metal tester or acids may be used to determine the results. It should be stated on the appraisal whether the metal was tested or not and the testing may have limiting conditions;
- Hallmarks and other national marks are frequently seen in jewellery. If mentioning the origin of these hallmarks, a reference must be made to country, city and year, if available;
- Trademarks - most jewellery is trademarked with a manufacturer's mark. Trademarks may be recognized as letters, shapes, figures or animals, or the name of the trademark holder, and should be described in the appraisal.

PRECIOUS METALS MARKINGS

The *Precious Metals Marking Act* (PMMA), administered and enforced by the Competition Bureau, prescribes uniform methods of marking precious metals articles made in whole or in part of gold, silver, platinum or palladium and prohibits markings that do not truly and correctly indicate the quality of the precious metal content. Acceptable quality marks and minimum quantity of precious metal for articles other than plated articles are described in section 6 of the *Precious Metals Marking Regulations* (PMMR) and are summarized in the following table.

Precious Metals	Quality Marks	<u>Minimum</u> Quantity of Precious Metal
-----------------	---------------	---

Gold	"Karat", "karat", "Carat", "carat", "KT", "Ct", "K", "C" e.g., 10k, 14k, 18k decimals: ".416", ".583", ".750"	9 karats
Silver	"silver", "sterling", "argent", "sterling silver", "argent sterling" decimal: .925	925 parts by weight in every 1,000 parts pure silver
Platinum	"platinum", "plat" or "platine"	95% platinum, or 95% platinum and iridium, or 95% platinum and ruthenium
Palladium	"Palladium" or "Pall."	95% palladium, or 90% palladium and 5% platinum, iridium, ruthenium, rhodium, osmium or gold

Section 7 of the PMMR describes acceptable quality marks and the specifications for plated articles while sections 8 to 12 describe acceptable quality marks and specifications for watch cases, bracelet watch cases, plated flatware and plated hollow ware.

In accordance with section 2 of the PMMA, a “mark” includes any mark, sign, device, imprint, stamp, brand, label, ticket, letter, word or figure.

Quality Marks - It is not mandatory to mark or advertise a precious metal article for quality, however, any reference made as to the quality of a precious metal article must be factual and disclosed in the prescribed manner. A quality mark may be applied to a precious metal article by any method - (subsections 4(1) and 4(2) of the PMMA)

Trademarks - Where a quality mark is applied to a precious metal article, it must bear a trade-mark that has either been applied for or registered with the Registrar of Trade-marks, Canadian Intellectual Property Office, Industry Canada - (subsection 4(3) of the PMMA).

The trade-mark must be applied by the same method as the quality mark - (subsection 5(2) of the PMMR).

Hallmarks and Foreign Government Marks - If a precious metal article is hallmarked according with the laws of the United Kingdom or has a foreign government mark applied according to the laws of the foreign country which truly and correctly indicates the quality of the precious metal, it does not require a trade-mark and may have a quality mark applied to it as per the Regulations - (subsection 4(4) of the PMMA).

Canadian National Mark - A national mark consists of a representation of a maple leaf surrounded by the letter “C”. The Commissioner of Competition can authorize a dealer to apply this mark to an article wholly manufactured in Canada if it is composed of a precious metal which has a quality mark prescribed in the Regulations and is quality-marked - (section 5 of the PMMA).

Anyone wishing to obtain additional information about the *Precious Metals Marketing Act* should contact the Competition Bureau’s Information Centre whose coordinates can be found on Page 17 of this document.

D. PROCESS OF MANUFACTURING

If known, the manufacturing method of an item of jewellery should be mentioned. These methods include:

- Handmade;
- Cast;
- Die struck;
- Hand assembled;
- Machine made.

An understanding of quality in the various types of manufacturing methods is very important to the appraiser. A common design should not be assumed to be a production piece nor should a custom design be assumed to have been cast. The analysis of manufacturing methods is important in estimating the cost of the item.

E. OTHER DESCRIPTIONS

- Shape, Style and/or Motif

Jewellery styles may be described by common trade names (e.g. crossover style ring, round, hollow, dome shaped earrings, bow-tie style brooch”) or other general terms such as ribbon, wave, step, shield, butterfly, concave, rectangle, square, teardrop, oval, ballerina, etc. Ring shank descriptions and terms may include split, flat tapered, half round, knife edge, double split, and raised bordered.

- Sizes

Significant dimensions of jewellery items (length, width, depth and/or thickness as appropriate) should be accurately reported. Ring size may also be reported.

- Chain

Chain link styles may be referred to by trade name (e.g. Gucci) or by descriptive names which may include, rope (twisted), box (twisted), serpentine (twisted), curb, cable, foxtail, herringbone, C-link, zipper, wheat, cobra, mesh, Figaro, etc.

- Stone Setting Styles and Patterns

The style, arrangement, and colour (if different from other parts of the item) of settings should be reported. Some examples of types of settings include: 4 prong (claw), 6 prong (claw), buttercup, split prong (claw), fish tail, bezel, pave, tube illusion, channel, half bezel, Gypsy illusion, bead set, Roman, invisible, basket multi-claw, fancy filigree claw set, scroll filigree Roman set, graduated channel, and multi-level random setting.

- Decorative Details

A motif is a design feature which is repeated and may be raised, indented, perforated, applied or incorporated into the outline shape of the item. Example motifs may include foliate, leaf, scroll, floral, scalloped, animal.

Texture describes a surface finish, and some examples of finishes on metal include high polished, brushed, sandblasted, bark, Florentine, ribbed, scaled, hand engraved.

Embellishments are additions (material or decorative detail other than texture) to enhance or beautify the main piece. Examples would include: enamel, twisted wire borders, milgraining and granulation.

- Necklaces, Neck chains and Bracelets - These should be described using trade name. Measurements should also be recorded for length, width and thickness.
-
- Clasps, Closures and Bales - Some examples of clasp and closure should include: box clasps (hidden), fish hook (filigree), spring rings, barrel clasps, lobster clasps, sister hooks, hidden bead clasps, screw clasp, safety chains, figure eight safety catch.

- Earrings – Some examples of findings: omega clips, French backs, post and butterfly, threaded stud, shepherds hook, screw backs and clip backs.
- Brooches – Some examples of closures include: hinged bar catch, hook catch, safety pin catch, roll-over pinstem catch, side-swing pinstem catch, sliding tube pinstem catch.
- Pendants – Some examples of bale findings: V-bale, split bale, straight bale, tapered, ribbed.
- Connectors used to assemble two-part earrings, multi-drop pendant brooches, necklaces or bracelets should be described and measured. Some examples of these findings are: jump rings, rivets, bar links, pins and posts.

F. GROSS WEIGHT

The gross weight of each item, the total gross weight of each pair or set or the average gross weight of each like item in a set should be accurately reported in grams to at least one decimal place.

APPENDIX II INSURANCE APPRAISAL CHECKLIST

The insurance appraisal for a jewellery item should include the following:

Appraiser Information

- Credentials;
- Appraiser's warranty;
- Date of appraisal;
- Date of examination of item (if different from date of appraisal);
- Printed name and signature of appraiser or authorized representative.

Descriptions

- Name and address of person or firm for whom the appraisal was prepared (if applicable);
- Type of item;
- Quantity of pieces;
- Gender style (if applicable);
- Metal & content analysis;
- Trademarks and quality marks;
- Description of major stones;
- Description of secondary stones;
- Total gross weight of item;
- Photograph(s);
- Currency used;
- Disclosure/limiting conditions (if applicable).