



UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580

Division of Enforcement  
Bureau of Consumer Protection

March 11, 1999

David Glass  
President & CEO  
Wal-Mart  
703 SW Eighth Street  
Bentonville, AR 72716

Dear Mr. Glass:

The staff of the Federal Trade Commission's Division of Enforcement has conducted an investigation of Wal-Mart to determine whether it engaged in unfair or deceptive acts or practices in violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45. In particular, the investigation concerned whether Wal-Mart was representing diamond weight and gemstone products in accordance with the Federal Trade Commission's Guides for the Jewelry, Precious Metals and Pewter Industries ("Jewelry Guides"), 16 C.F.R. Part 23.

The Jewelry Guides provide that if diamond weight is stated as decimal parts of a carat, the figure should be accurate to the last decimal place. 16 C.F.R. § 23.17(b). The Guides also advise that fractional representations of diamond weight should be accompanied by a disclosure that the weight is not exact and a disclosure of either the range of weights for that fraction or the tolerance that is being used. *Id.* With respect to gemstone products, the Jewelry Guides provide that "[i]t is unfair or deceptive to fail to disclose that a gemstone has been treated in any manner that is not permanent or that creates special care requirements, and to fail to disclose that the treatment is not permanent, if such is the case." 16 C.F.R. § 23.22.

Wal-Mart informed staff that, pursuant to company policy, its promotional materials include disclosures that fractional diamond weights are not exact and provide the tolerances that are being used or a chart indicating the range of weights for fractional weight representations. Wal-Mart has committed to increase the type size of these disclosures and to utilize a print color that is more clear and conspicuous.

Wal-Mart also informed staff that it has revised its vendor documentation to clearly and affirmatively require its gemstone product suppliers to disclose gemstone treatments. Wal-Mart has trained its sales staff to disclose gemstone treatments to consumers orally. Wal-Mart also has removed all gemstone advertising from its website until it has a chance to revise its on-line advertisements to include disclosures regarding gemstone treatments.

The staff has concluded that no further action is warranted by the Commission at this time. Accordingly, the investigation has been closed. This action is not to be construed as a determination that a violation may not have occurred, just as the pendency of an investigation

should not be construed as a determination that a violation has occurred. The Commission reserves the right to take such further action as the public interest may require.

Very truly yours,

Elaine D. Kolish  
Associate Director

cc: Sallie Stroud, Esq.