

BV Schmuck + Uhren calls for harmonisation for products made of precious metals

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Directive of the European Parliament and Council on the alignment of the legal and administrative provisions of the member states for products made of precious metals has been under discussion since 1993.

Hitherto the directive has not been passed because of the opposing views of the EU members with so-called compulsory hallmarking, i.e. supervision by state authorities, for products made of precious metals on the one hand, and those member states who on the other hand rely on the sole responsibility of the producer.

In order to give fresh impetus to the discussions which have been dragging on for months, BV Schmuck + Uhren has now approached the Federal Ministry for Industry and Technology (BMWT) and emphatically requested support at European level.

BV Schmuck + Uhren is calling for early harmonisation. In this connection it no longer considers compulsory state hallmarking to be appropriate to the times and is advocating responsibility on the part of the manufacturer.

In a comment paper, BV Schmuck + Uhren states among other things:

- The precious metal industry is one of the few exceptions, for which there are still no harmonisation rules.
- The harmonisation to be aimed at must promote free traffic of goods and remove the obstacles to trade associated with compulsory hallmarking.
- The aim of harmonisation must be fair competition!
- Foreign competitors can supply to Germany without observing the comprehensive hallmarking and

marking stipulations. As a counter balance this must also be possible for German suppliers.

- German suppliers have considerable problems (obtaining the provisions, as these are generally only available in the relevant country language, cost-intensive production of tools for the affixing of stamps) in meeting the prescribed marking and stamp provisions for showing fineness and responsibility marks.
- In countries with compulsory hallmarking, experience shows that local producers are given preferential treatment in clearance. Imported goods are normally left waiting longer, creating a disadvantage for non-domestic producers. This treatment clearly represents a distortion of competition, which is attributable to the existence of control offices.
- The status of the control offices in the hallmarking countries as state authorities frequently leads to customers (jewellers) "giving in" for fear of sanctions (even longer processing times). This has already led to BV Schmuck + Uhren being asked, for example by jewellers from other EU countries, for support in the abolition of the hallmarking obligation at EU level.
- Extra time is required for the inspection of goods by a state authority. In an age of ever shortening delivery times an artificial extension by state authorities is not reasonable. Furthermore every inspection by the hallmarking offices causes damage to the goods, as there is never a damage-free inspection of the goods. This also leads to an increase in the time and cost

involved and customer annoyance. Reference is also made to the disproportionate nature of the cost of the inspection in relation to the actual value of the precious metal tested in the sale price of the product.

The value of the precious metal tested as the setting metal is frequently of only secondary importance in relation to the processing costs and the cost of setting with diamonds and coloured gems with regard to the final price.

- In private sales over the internet (mail order business) the test mark of the testing office (Assay-Office) is of no importance. The customer purchases the product of the manufacturer or supplier.
- In some countries the abolition of the testing offices is an employment problem, in other countries a problem of financial policy. In both cases testing makes the goods more expensive. German suppliers therefore become involved in the costs.
- The costs and charges included in the calculation for such an arrangement produce a considerable rise in price for the consumer in the combination of factors making up the sale price.
- Experience has shown that the controls of the hallmarking offices do not offer any greater guarantee for the consumer than the responsibility mark administered by manufacturers; in particular the hallmarking offices do not assume any independent liability, this falls exclusively to the manufacturer.*
- The unavoidable increase in the sale price bears no relation to the

aim of an additional state ordained assurance regarding indication of fineness.

Legislation – such as Fineness Law, Law against unfair competition and others – is more effective, better value for the consumer and just as sound.

- The hallmarking provisions of the individual countries are already so diverse (for instance in some countries gold with steel is permitted, and not in others), that a harmonised European regulation is urgently required.
- In this connection care should however be taken to ensure that in applying the directive to the individual countries the foreign competitor is not hindered by country-based regulations or requirements in competition with domestic suppliers.
- Exaggerated obligations of proof and cost intensive certification proceedings are also to be avoided in the interest of small and medium-sized businesses.

- The compromise proposal with mark “E” in Appendix III of the draft directive (EC Declaration of conformity) and “e” in Appendix II (Quality control – Product) and in Appendix IV (checking by third parties) meets with the approval of those in the industry in most EU member countries. At the Congress of the international jewellery association C IBJO (C O N F E D E R A T I O N INTERNATIONALE DE LA BIJOUTERIE, JOAILLERIE, ORFEVRERIE, DES DIAMANTS, PERLES ET PIERRES) eventually only the Netherlands and Portugal came out against this.

For all the reasons mentioned BV Schmuck + Uhren expressly holds the opinion, that the responsibility of the manufacturer is decisive. Additional state control is not required.

* **Editor’s note:** In the U.K., the Assay Offices do have a legal liability and thus the consumer does have a greater guarantee.

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C.W. Corti

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