A DIAMOND IS…GROWN IN A LAB: LEGAL CONCERNS SURROUNDING THE PUSH FOR MINED DIAMONDS OVER LAB-GROWN ALTERNATIVES

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I. INTRODUCTION

As consumers are increasingly turning to lab-grown diamonds as an alternative to natural, mined diamonds, the push by major jewelry retailers to promote natural diamonds over lab-grown alternatives raises questions about the monopolistic tactics and potential antitrust violations over deceptive campaigning in the diamond industry.[1] Seeing the shift toward lab-grown stones, large jewelry retailers, Signet Jewelers and the De Beers Group, have responded by changing their strategy to promote mined diamonds as the superior stone over lab-grown alternatives.[2] The artificial promotion of mined stones raises concerns about monopolistic tactics and potential antitrust violations in the diamond industry and may be in contention with the Federal Trade Commission's (FTC) 2018 ruling that lab-grown diamonds are equally

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[1] Diana Pearl, *How 2023 Became the Year of the Lab-Grown Diamond*, CNN (Oct. 26, 2023), https://www.cnn.com/style/lab-grown-diamonds-popularity-2023-bof/index.html [https://perma.cc/GM6Q-CBGQ] (the sale of lab-grown diamonds has increased from approximately $1 billion in 2016 to approximately $12 billion in 2022. The overall rate of sales for lab-grown diamonds grew by 38% from 2021 to 2022); Paul Zimnisky, *Lab Diamond Sales Grow as Prices Fall*, PAUL ZIMNISKY DIAMOND ANALYTICS (Oct. 2, 2023), https://www.paulzimnisky.com/Lab-Diamond-Sales-Grow-as-Prices-Fall [https://perma.cc/R9LK-E5NQ] (in 2022, for the first time, lab-grown diamonds accounted for over 10% of global diamond jewelry sales, thus signifying the growing popularity of lab-grown stones in the diamond market).

[2] Zimnisky, *supra* note 1 (Signet Jewelers expanded into lab-grown diamonds alongside selling natural diamonds in bridal jewelry to reflect the growing demand of lab-grown diamonds in both bridal and fashion jewelry markets); *Signet and De Beers Collaborate to Highlight the Unique Attributes of Natural Diamonds to a New Generation of U.S. Couples*, SIGNET JEWELERS, (May 5, 2024), https://www.signetjewelers.com/investors/financial-news-releases/financial-news-release/2024/De-Beers-Collaboration/default.aspx [https://perma.cc/H5ZC-HKHS] [hereinafter *Signet De Beers to Collaborate*]; Bob Bates, *Signet Still Likes Lab-Created Diamonds—but for Fashion*, JCK (Jun. 14, 2024), https://www.jckonline.com/editorial-article/signet-lab-created-diamonds/ [https://perma.cc/SPX9-HR6D] (despite Signet's introduction of lab-grown diamonds into their bridal collections, Signet's CEO Gina Drosos stated that Signet would primarily focus the attention on lab-grown diamonds to their relevancy in fashion jewelry, not for engagement and bridal stones).

real diamonds to their mined counterparts.[3] This current effort raises legal questions about marketing tactics that mirror the infamous *A Diamond is Forever* campaign popularized by the De Beers group.[4] The *A Diamond is Forever* campaign succeeded by fabricating a mythicized promise of eternal value, manipulating consumer demand, and controlling worldwide diamond mining and stock, to establish a monopoly over the diamond market.[5] This Note argues that the current push for natural diamonds may extend beyond simple preference for these stones, and instead reflects strategies designed to control market perception, limit consumer choice, and sustain higher profits in a way that could violate consumer protection and antitrust laws. By examining the tactics of the recently announced campaign between diamond industry giants, Signet Jewelers and the De Beers Group[6], through the lens of antitrust regulation and consumer protection, this Note explores whether the diamond market is at risk at recreating the deceptive practice that shaped the industry's

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[3] 16 C.F.R. § 23.12 (2018); Federal Trade Commission, *FTC Approves Final Revisions to Jewelry Guides* (July 24, 2018), https://www.ftc.gov/news-events/news/press-releases/2018/07/ftc-approves-final-revisions-jewelry-guides [https://perma.cc/MCB9-5VVB].

[4] J. Courtney Sullivan, *How Diamonds Became Forever*, N.Y. TIMES (May 3, 2013), https://www.nytimes.com/2013/05/05/fashion/weddings/how-americans-learned-to-love-diamonds.html [https://perma.cc/K48Q-VG58] (in 1947, Frances Gerety, a copywriter, wrote the tagline for the De Beers Group).

[5] *Id.* (in 1938, a De Beers representative wrote to N. W. Ayer & Son, the advertising agency for De Beers, to ask whether "the use of propaganda in various forms" might boost the sale of diamonds in the United States, thus N.W. Ayer set on the goal by aiming to "to create a situation where almost every person pledging marriage feels compelled to acquire a diamond engagement ring." As such, De Beers strategically shaped consumer perception by embedding diamonds into societal norms as essential symbols of marriage. Diamond rings went from a luxury commodification to a cultural necessity around marriage. This approach not only bolstered diamond demand but also served as the impetus of De Beers' monopolistic practices, violations of antitrust, and influence over consumer behavior and the diamond market); *The De Beers Diamond Hoax: Marketing Campaigns and Legacies*, GLEMONT CONSULTING, https://glenmont.co/the-de-beers-diamond-hoax-marketing-campaigns-and-legacies/ [https://perma.cc/ST23-SMEX] ("The campaign aimed to convince consumers that a diamond engagement ring was an essential part of any marriage proposal and that the size and quality of the diamond reflected the depth of a man's love for his partner. This message was reinforced through various advertising channels, including magazines, radio, and television. De Beers also collaborated with celebrities and fashion designers to showcase diamond engagement rings in high-profile events and public appearances").

[6] *Signet De Beers to Collaborate*, *supra* note 2 (on May 22, 2024, Signet Jewelers and the De Beers Group announced their collaboration in effort to "highlight the unique attributes of natural diamonds" to the "new generation" of couples, Zillennial couples—as the sub-generation between Gen-Z and Millennials—in the United States).

dominance over diamonds with a modern iteration that only a *natural* diamond can be forever.

II. THE ROLE OF SIGNET AND DE BEERS IN INFLUENCING THE DIAMOND INDUSTRY

In May 2024, Signet Jewelers and the De Beers Group announced a collaborative campaign, called *Worth the Wait*, that would bolster the attributes of natural diamonds to a new generation of soon-to-be-married couples in the United States.[7] By leveraging their dominant positions in the diamond industry, Signet and De Beers' *Worth the Wait* campaign artificially prioritizes misguided attributes of natural diamonds while marginalizing lab-grown alternatives. Thus, the *Worth the Wait* collaboration raises several legal concerns about potential antitrust violations and possible manipulation of consumer markets.

A. *Introduction to Signet Jewelers and the De Beers Group*

Signet Jewelers and the De Beers Group are two of the most influential powerhouses in the diamond industry, with each company playing a unique role in shaping how consumers view and purchase diamonds. Signet Jewelers currently dominates as the world's largest retailer of diamond jewelry.[8] Signet is primarily known for its popular and accessible consumer jewelry brands such as Kay Jewelers, Jared, and Zales.[9] The advantage that Signet has in the diamond industry is its large consumer reach, broad portfolio of stores, and brand recognition.[10] In contrast, the De Beers Group is the world's leader in diamond exploration and mining.[11] The De Beers Group dominated the 20th century as the controller of the diamond industry and creator of the *A Diamond*

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[7] *Id.*

[8] *Our Brands*, SIGNET JEWELERS (last visited Jan. 11, 2025), https://www.signetjewelers.com/brands/default.aspx#:~:text=Signet%20Jewelers%20is%20the%20world's%20largest%20diamond%20retailer%20with%20approximately,Samuel%20and%20Ernest%20Jones [https://perma.cc/4AMH-Q2R7] (Signet brands are currently the #1 retailer in specialty jewelry markets in the United States, Canada, and United Kingdom).

[9] *Id.* ("Signet Jewelers is the world's largest retailer of diamond jewelry and houses approximately 2,700 locations under their recognizable brand names within the Signet portfolio of stores, including the brands of Kay Jewelers, Zales, Jared, Banter by Piercing Pagoda, Diamonds Direct, Blue Nile, JamesAllen.com, Rocksbox, Peoples Jewelers, H.Samuel and Ernest Jones").

[10] *Id.*

[11] *About Us*, DE BEERS GROUP (last visited Oct. 27, 2024), https://www.debeersgroup.com/about-us [https://perma.cc/F2V8-85MP].

is Forever campaign.[12] This campaign undoubtedly cemented diamonds as the ultimate symbol of love and solidified its place as the center stone of engagement and marital jewelry.[13] Through its artificial control of the diamond mines and supply channels, De Beers fabricated a perceptions of diamonds as more rare and valuable than they were by artificially deflating their quantity and inflating their cost, thus monopolizing the diamond market.[14] De Beers' business conduct has sparked several lawsuits concerning monopolistic practices, antitrust concerns, and litigation about the conflicts surrounding their mining and manufacturing processes.[15] While Signet is seen as the dominant force in the retail market of engagement jewelry, De Beers is seen as the controller of the supply of diamonds; together they are a powerhouse to lead the collaborative effort seemingly against lab-grown diamonds.[16] The collaboration is aimed at marketing natural diamonds as

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[12] Sullivan, *supra* note 4; *De Beers – Monopoly Broken*, AUSTL. DIAMOND PORTFOLIO (last visited April 10, 2025) https://www.diamondportfolio.com.au/investor-centre/market-information/de-beers-monopoly-broken/#:~:text=Summary,unassuming%20moniker%20Diamond%20Trading%20Co. [https://perma.cc/9X7C-8E9Z] (For most of the 20th century, De Beers controlled and monopolized the diamond supply. In the peak of its dominance, De Beers controlled 90% of the world market share of diamonds in the 1980s).

[13] Sullivan, *supra* note 4; *De Beers – Monopoly Broken*, *supra* note 12.

[14] Albert Allen Foer, *An Essay on Diamonds, Trust, and Antitrust, Inspired by Barak D. Richman's Stateless Commerce*, 64 ANTITRUST BULL. 105, at 106–07 (2019), https://journals.sagepub.com/doi/10.1177/0003603X18822578 [https://perma.cc/JV2E-87RG] (De Beers maintained control of the diamond market by regulating mining aspect through controlling the quantity, size, and price of diamonds. This strategy enabled De Beers to monopolize the downstream processes of mining. Then, De Beers continued to gain on their control over the diamond industry by monopolizing on the manufacturing aspect. De Beers opted to buy up excess diamonds and hold them in reserve when supply exceeded demand, a strategy requiring deep financial resources and long-term patience. This approach stabilized the diamond market by preventing supply fluctuations caused by the rapid exploitation of newly discovered diamond fields).

[15] Sullivan v. DB Invs., Inc., 667 F.3d 273 (3d Cir. 2011) (a class action of American diamond purchasers filed suits against De Beers over anticompetitive activities); *Diamond Rebates May be Coming*, CHI. TRIB. (Jan. 22, 2008), https://www.chicagotribune.com/2008/01/22/diamond-rebates-may-be-coming/ [https://perma.cc/ZHG7-SHA5] (in 2008, American consumers who purchased diamond jewelry may have been entitled to rebates from the settlement of the series of class action lawsuits that accused De Beers over price-fixing and monopolistic practices).

[16] Lisa Fickenscher, *How The World's Two Biggest Diamond Companies Are Plotting Against The Rise Of Lab-Grown Gems: 'Buyer Beware'*, N. Y. POST (June 12, 2024), https://nypost.com/2024/06/12/business/how-the-worlds-two-biggest-diamond-companies-are-plotting-against-the-rise-of-lab-grown-gems/ [https://perma.cc/C88Z-MBBQ] (professionals in the diamond industry posit that the campaign between

superior over lab-grown diamonds amidst the increasing popularity among consumers to purchase lab-grown diamond alternatives.[17] The *Worth the Wait* collaboration between the two companies presents new legal concerns over similar contentions addressed in the De Beers lawsuits decades ago.

B. *The A Diamond is Forever Campaign and Its Impacts*

In 1947, De Beers unveiled the *A Diamond is Forever* campaign.[18] The inarguably iconic and impactful campaign centered diamonds as the ultimate symbol of love, making it the only acceptable stone for engagement rings, but not without consumer controversy and legal issues.[19] The *A Diamond is*

Signet and De Beers was a decisive response to the growing popularity of lab-grown diamonds, which due to their cheaper cost and abundance, poses a threat to the revenue, false exclusivity, and narrative that the mined diamond industry implanted into American consumer culture around diamonds); Bob Bates, *Why Signet and De Beers Are Working Together on a New "Beacon"*, JCK (May 22, 2024), https://www.jckonline.com/editorial-article/signet-de-beers-working-together/ [https://perma.cc/E4C7-KMYS] (De Beers' CEO, Al Cook, stated in an interview with JCK about the collaboration with Signet that "The world's biggest diamond producer, the world's biggest diamond retailer, you can only bring them together once. This is bigger and better and different than anything we've ever done").

[17] Pearl, *supra* note 1 (lab-grown diamonds are continuing to rise in popularity, especially in engagement and bridal jewelry); Bates, *supra* note 16 (Signet and De Beers' campaign is centered around a re-narration of the importance of a natural diamond, specifically, for the center of an engagement or bridal jewelry piece).

[18] *About Us*, *supra* note 11.

[19] Sullivan, *supra* note 4 (the *A Diamond is Forever* tagline successfully created an emotional association for American consumers between diamonds and everlasting love. This profound association aided in De Beers' success with the campaign, as De Beers, being the controller of the world's supply of diamonds, was actually barred from doing business in the United States due to antitrust laws. Thus, De Beers used indirect advertising strategies, such as commissioning artwork to feature diamonds or promoting the usage of the tagline in Hollywood movies. These tactics solidified the cultural significance of the diamond and allowed De Beers to dominate the diamond market without directly referencing the brand itself); Michel Martin, *The Dark Side of Diamonds*, NPR, (May 24, 2006), https://www.npr.org/2006/05/24/5428055/the-dark-side-of-diamonds [https://perma.cc/Y8Z3-6HYT] (beginning in the late 1930s, the De Beers Group pushed their *A Diamond is Forever* marketing campaign in American magazines. The *A Diamond is Forever* campaign harped on longevity and everlasting love by propagandizing the notion that "the diamond was your way of essentially carving your name upon the surface of the world, that the stone would outlive you. And not only that, but that the stone, the brilliance of the stone would outlive your marriage, which was certain to get dull and without thrills; and so, the way that you preserved these feelings was to buy that diamond"); *The De Beers Diamond Hoax*, *supra* note 5 (the *A Diamond is Forever* campaign ultimately led to profound impacts on the diamond industry, including increased diamond demand,

Forever campaign was more than just good marketing as it made diamonds the crown jewel for engagement jewelry, but it also inflated the value and demand of diamonds and helped De Beers maintain dominance over the diamond market.[20] Today, similar tactics appear to be reemerging in the *Worth the Wait* campaign, as it focuses on pushing natural diamonds as the superior stone choice over lab-grown diamonds to the new generation of diamond consumers.[21] By positioning mined diamonds as inherently superior over lab-grown alternatives, *Worth the Wait* raises questions about whether this effort, like its predecessor, serves to manipulate consumer perception, restrict competition, and skirt antitrust protections.

1. *The Impact of the A Diamond is Forever Campaign on Consumer Behavior*

The success of the diamond industry and the idolization of diamonds can be traced back to the powerful advertising in the *A Diamond is Forever* campaign.[22] Prior to the campaign's launch, diamonds were uncommon in engagement and marital jewelry.[23] In the early 20th century, diamond rings

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false scarcity, inflated prices, a façade of perceived value and resale value, and a consumer culture in America that places high value on diamonds as a necessity for marital jewelry).

[20] Tobias Kretschmer, *De Beers and Beyond: The History of the International Diamond Cartel* 1, 3 (1998) (business school case study) (on file with New York University Stern Library) (starting in the 1970s, the De Beers monopoly fabricated an artificial reduction of the diamond supply through stockpiling their mined stones; thus, driving up diamond prices); Seth I. Rosen, *Are Diamonds Really Rare? Diamond Myths and Misconceptions*, INT'L GEM SOC'Y, https://www.gemsociety.org/article/are-diamonds-really-rare/ [https://perma.cc/8NNB-UW5V] (diamonds are not the rarest nor the most valuable stone, as much of their perceived rarity is contrived through the De Beers' monopoly and further purported by deceptive marketing tactics. In 1999, the De Beers London stockpile was valued at $5.2 billion, but the company agreed to stop stockpiling diamonds in 2000. In 2004, De Beers pled guilty to criminal price fixing before a U.S. federal court, which allowed them to resume diamond sales in the U.S. The U.S. Supreme Court later refused to consider De Beers' appeal in 2012 regarding a class action settlement over unfair business practices); *The De Beers Diamond Hoax*, *supra* note 5 ("By controlling the diamond supply and creating an artificial demand, De Beers was able to maintain high prices for diamonds. This allowed the company to generate significant profits and maintain its monopoly on the diamond trade for decades").

[21] *Signet De Beers to Collaborate*, *supra* note 2.

[22] Foer, *supra* note 14, at 106–07.

[23] Andrew Francis-Tan & Hugo Mialon, *'A Diamond is Forever' and Other Fairy Tales: The Relationship between Wedding Expenses and Marriage Duration* 1, 2–3 (Sept. 15, 2014), http://dx.doi.org/10.2139/ssrn.2501480 [https://perma.cc/4AMH-Q2R7].

were seen as a reserve for the nobility and upper aristocracy—with an estimated less than 10% of engagement rings containing a diamond stone.[24] De Beers, however, succeeded in completely redefining the public schema and positioning diamonds as the quintessential element of engagement and marital jewelry by propagating the notion that diamonds were a symbol of everlasting love and held an everlasting value.[25] In spite of their efforts, De Beers was aware that the value of diamonds was far less in monetary worth than other precious materials, such as gold or silver.[26] By understanding the actual worth of a diamond, De Beers instead chose to market the social value of a diamond around love, longevity, and recognition of its importance through the use of emotional marketing.[27] The *A Diamond is Forever* campaign harped on these social values through its adverts.[28] These values matriculated into the American psyche around engagement jewelry as the campaign suggested that a more expensive diamond equated to a better, longer marriage—thus, creating an expectation for diamonds to be the stone in engagement and marital jewelry.[29] Following the campaign's launch and throughout the 20th century, wherever love was broadcasted, diamonds were inexorably present.[30] The prevalence of diamonds throughout print media, advertisements, and Hollywood movies fed into a growing American obsession and budding

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[24] *Id.*

[25] Sullivan, *supra* note 4 (in 2012, 75% of brides in the United States wore a diamond engagement ring and, that same year, Americans almost spent $7 billion dollars on diamond engagement rings); *see also supra* note 19 and accompanying text.

[26] *See* Rosen, *supra* note 20.

[27] Martin, *supra* note 19 (some of the advertising strategies in the wake of the *A Diamond is Forever* campaign centered around the threatening message that if one did not buy a diamond for their engagement ring, that the marriage would die, be dull, or fail); Francis-Tan & Mialon, *supra* note 23, at 3 (*A Diamond is Forever* harks on the notion that a higher cost spent on wedding, including cost on engagement and bridal jewelry, has a positive association with marriage longevity. There is very little real evidence that wedding cost and duration of marriage are positively associated; rather, this belief seems to be a stem from the propaganda pushed around diamonds and wedding longevity); *see also* Sullivan, *supra* note 4 (text accompanying note 19).

[28] *See* Sullivan, *supra* note 4 (text accompanying note 19).

[29] Francis-Tan & Mialon, *supra* note 23, at 9 (there is no relationship or inverse association with marriage duration and cost of engagement ring); *see also supra* note 19 and accompanying text.

[30] Sullivan, *supra* note 4 (the campaign's success worked and sustained itself by pushing diamonds everywhere, not specifically promoting the De Beers group. Due to antitrust laws preventing De Beers from doing business in the United States, De Beers used indirect advertising tactics. Through this, De Beers was able to dominate the diamond market and solidify the cultural significance of diamonds, all while circumventing antitrust restrictions that prevented direct promotion of the brand).

cultural norm around diamond engagement jewelry.[31] The overarching plan of the *A Diamond is Forever* campaign was to alter the public consciousness on norms of how a man should court a woman.[32] De Beers crafted a cultural allure around diamonds with their aggressive marketing tactics, using Hollywood and the emergence of movies and movie stars, to shape public perception around the stone.[33] De Beers worked with Hollywood directors to influence movie scenes to include diamond gifting moments to condition audiences to associate diamonds with romance; thereby, reinforcing the idea that diamonds were an essential part to a successful, long-lasting relationship.[34] The success of *A Diamond is Forever* campaign not only established diamonds as an archetypal symbol of love but also aided De Beers' position as the dominant ruler of the diamond industry.[35]

Despite the profound success of the *A Diamond is Forever* campaign, the mania clouding even the clearest diamonds drew considerable criticism. De Beers faced scrutiny for its campaign, specifically around its impact on consumer behavior, the conflated economic and social perceptions surrounding diamonds, the greater conflicts surrounding the mining industry.[36]

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[31] Michael Montgomery, *Hollywood's Diamonds*, AM. PUB. MEDIA https://americanradioworks.publicradio.org/features/diamonds/hollywood.html [https://perma.cc/ZC2W-ZSCT]; Edward Jay Epstein, *Have You Ever Tried to Sell a Diamond*?, ATLANTIC MONTHLY, Feb. 1982, at 23–25, https://www.theatlantic.com/magazine/archive/1982/02/have-you-ever-tried-to-sell-a-diamond/304575/ [https://perma.cc/U7BT-ZZRP](De Beers, with the help of the N.W. Ayer, used the tactful campaign to associate diamonds with romance, emphasizing that the size and quality of a diamond symbolized the depth of love. They targeted young men, urging them to view diamonds as essential for engagement, while encouraging women to see diamonds as a key part of romance. The campaign used Hollywood celebrities and royal figures to reinforce the emotional allure of diamonds, with advertisements in magazines and movies linking diamonds to luxury and artistry. By 1941, diamond sales increased by 55%, and the slogan *A Diamond Is Forever* became iconic. De Beers continued to shape public opinion through media, lectures, and celebrity endorsements, making diamonds a psychological necessity in American culture).

[32] Epstein, *supra* note 31, at 23 ("Since "young men buy over 90% of all engagement rings," it would be crucial to inculcate in them the idea that diamonds were a gift of love: the larger and finer the diamond, the greater the expression of love. Similarly, young women had to be encouraged to view diamonds as an integral part of any romantic courtship").

[33] *Id.*; *see* Montgomery, *supra* note 31.

[34] Epstein, *supra* note 31, at 25.

[35] *Id.* at 24, *see supra* notes 4, 19 and accompanying text.

[36] Martin, *supra* note 19 (consumers became aware of "blood diamonds" or "conflict" or "war" diamonds. These terms referenced diamonds typically mined in Africa that were sold to finance armed conflict against governments, often under violent and exploitative conditions. The "visceral" term of "blood diamond" became hard to shake

The campaign created and fed into immense social pressure, prompting consumers to feel obligated to purchase a diamond, often at a substantial financial cost.[37] The obligation to purchase a diamond was further fueled by the marginalization of alternative gemstones such as moissanite, cubic zirconia, and now—lab-grown diamonds.[38] Additionally, De Beers' control over the supply chain of diamonds fostered an illusion of rarity, which led to inflated diamond prices through an artificial restriction of the stone's supply.[39]

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apart from the many abuses surrounding the extraction and manufacturing of the stone. These diamonds became synonymous with unethical practices due to the human rights abuses, environmental harm, and unfair labor conditions associated with their production).

[37] Emily Rumsey, *Here's The Average Engagement Ring Cost in 2025, According to Real Couples*, KNOT (Updated Jan. 9, 2025), https://www.theknot.com/content/how-much-to-spend-on-engagement-ring [https://perma.cc/JGL4-REBD] (the average nationwide cost of a wedding ring, according to a survey by The Knot in 2024, was $5,200. While the average cost was $6,000 in 2021, The Knot's annual survey found that number fell to $5,800 in 2022 and $5,500 in 2023); Pearl, *supra* note 1 (many consumers are inclined to purchase lab-grown diamonds because their cost is far less than a mined stone); *see also* Martin, *supra* note 19 for a discussion on social perceptions of necessity around diamonds and subsequent martial expectations.

[38] Bates, *Signet Still Likes Lab-Created Diamonds—but for Fashion, supra* note 2 (Signet's CEO stated that lab-grown diamonds were better for "fashion jewelry" rather than engagement or marital jewelry); *Signet De Beers to Collaborate*, *supra* note 2 (press release from Signet announcing the initial collaboration between Signet and De Beers to promote mined diamonds to soon-to-be engagement couples, as well as efforts on Signet's own part, who has multiple lab-grown diamond lines for engagement jewelry, to "invest in new trainings" for Signet employees to promote mined diamonds over lab-grown stones); Stephanie Talmadge, *Lab-Grown Diamonds: They're Real, and They're Spectacular*, GQ (Oct. 16, 2018), https://www.gq.com/story/lab-grown-diamonds-are-a-thing [https://perma.cc/JTG8-9D5S] (despite De Beers' campaign and monopoly over the diamond market contributing to the false rarity and artificial value of diamonds, the company still promotes mined stones over lab-grown alternatives with De Beers' CEO, Bruce Cleaver stating: "Synthetics are fun and fashionable, but they are not real diamonds in my book. They aren't rare or given at life's great moments. Nor should they be"); Jane Herz, *Furious Debate Breaks Out Over Lab-Grown Diamonds - As Critics Claim The Jewels Are 'Not As Special',* DAILY MAIL (Jun. 12, 2024), https://www.dailymail.co.uk/femail/article-13513721/lab-grown-diamonds-furious-debate.html [https://perma.cc/8BQ7-B2RP].

[39] Kretschmer, *supra* note 20, at 3 (in the 1970s, high inflation in Israel led merchants to hoard diamonds as a stable currency and secure loans, artificially reducing supply and driving up prices. While De Beers initially benefited from the price increases, the company recognized the potential crisis that diamonds held for investment by individuals could reenter the market unpredictably, thus undermining De Beers' control over supply and pricing. To prevent dips in pricing and avoiding De Beers' careful crafted image that diamonds were rare, De Beers hoarded its own stockpile of

This artificial scarcity led to overpricing, inflated value, and monopolistic control as De Beers set the price of diamonds without competition. Furthermore, the mantra that *A Diamond is Forever* implied an eternal resale value of a diamond, a notion that has misled consumers on the "forever" value of the stone given its limited resale market and the low resale value for most diamonds.[40]

In addition to De Beers' brilliant rise to dominance through their aggressive campaign strategy, the company further positioned itself to the top of the industry through its monopolistic control of diamond mining, manufacturing, and distribution. De Beers was able to inflate demand and dictate prices, ensuring that diamonds retained their perceived value by setting sale prices.[41] This monopoly eventually led to significant antitrust lawsuits and harsh criticism on De Beers' business practices.[42] The company's history of using aggressive advertising to manipulate consumer behavior echoes in its collaboration with Signet, where similar antitrust concerns and consumer protection challenges arise because of the promotion of mined diamonds as superior over lab-grown alternatives.[43] By fostering the contrived notion that

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diamonds to prevent the number of them increasing in the market. De Beers repeated similar practices in several other international markets); *see also* Foer, *supra* note 14, at 106–07.

[40] Rosen, *supra* note 20 (diamonds are not the rarest nor are they the most valuable stone in the gemstone market. Likewise, the margins for resale and investment value on a diamond is very thin. Diamond dealers make gross margins on resale of diamonds inside of 5%, with even less profit for individuals selling personal diamonds and collections); Foer, *supra* note 14, at 107 (diamonds have little intrinsic value beyond their not-so-rare rarity and durability. Rather, De Beers has relied on public relations, strategic mining, and withholding diamonds to create sustained demand. The *A Diamond is Forever* tagline helped cultivate a global culture associating diamonds with love, driving long-term consumer sentiment and discouraging resale); Martin, *supra* note 19 (the rarity of diamonds was contrived through De Beers' control of the industry and facilitation of artificial scarcity).

[41] Sullivan v. DB Invs., Inc., 667 F.3d 273, 286 (3d Cir. 2011).

[42] U.S. Dep't of Justice, *De Beers Centenary Ltd. Agrees to Settle Antitrust Charges*, (Sept. 9, 2004), https://www.justice.gov/archive/atr/public/press_releases/2004/204592.htm [https://perma.cc/R48J-GSDL].

[43] *Signet De Beers to Collaborate*, *supra* note 2 ("Natural diamonds are the perfect symbols to celebrate life's most meaningful moments – they are as unique, timeless, rare and precious as the emotions they represent…"); Federal Trade Commission, *FTC Sends Warning Letters to Companies Regarding Diamond Ad Disclosures* (Apr. 2, 2019), https://www.ftc.gov/news-events/news/press-releases/2019/04/ftc-sends-warning-letters-companies-regarding-diamond-ad-disclosures [https://perma.cc/AL84-BRMR] [hereinafter *FTC Warning Letters*] ("the FTC raised concerns in their letters that certain companies' advertisements may mislead consumers by implying that simulated diamonds are lab-created or mined, or vice

mined diamonds possess inherent value greater than lab-grown diamonds, *Worth the Wait* risks repeating the monopolistic practices and anti-competitive behaviors that propelled the *A Diamond is Forever* campaign.

2. *The De Beers Group's Less Than Sparkling Legal History*

The De Beers Group did not rise to be the diamond industry's forerunner through good advertising alone, they also established a monopoly.[44] De Beers managed a monopoly with the help of their creation of the Central Selling Organization (CSO).[45] The CSO was a distribution channel that controlled majority of the world's diamond trade through the regulation of diamond stockpiles and by establishing favorable formulas to set the price of uncut diamonds.[46]

In 2004, De Beers plead guilty to violating Section One of the Sherman Act, thereby admitting to illegal price-fixing practices that artificially inflated the price of uncut diamonds worldwide.[47] The admission came after decades of accusations related to De Beers' monopolistic control over the diamond industry.[48] Ultimately, the plea deal resulted in De Beers receiving a $10 million criminal fine—the maximum penalty for the offense committed.[49] The plea agreement served as an important step in the U.S. government's and the Department of Antitrust Division's broader goal to combat illegal price-fixing practices and restore fair competition of diamonds within the market.[50] By entering the plea agreement, De Beers admittedly acknowledged responsibility

versa, and by failing to place required disclosures about diamond sourcing near the product descriptions. These practices could violate the current version of the jewelry guides and deceive consumers").

[44] A. Davgun, H. McDaniel, M. Thomas, & J.S. O'Rourke, De Beers Ltd., *Polishing Up Its Brand for the U.S. Market (A)*, THE EUGENE D. FANNING CENTER FOR BUSINESS COMMUNICATION, MENDOZA COLLEGE OF BUSINESS, UNIVERSITY OF NOTRE DAME 2004, 4–8 (A) https://doi.org/10.4135/9781526406088 [https://perma.cc/93VD-MNXX][Hereinafter Davgun (A)].

[45] *Id.*; 1–13 *Law & Economics of Antitrust Class Certification* § 13.01 (2024) (De Beers established the CSO and through the CSO it maintained complete control over all of its competitors).

[46] *Law & Economics of Antitrust Class Certification*, *supra* note 45.

[47] U.S. Dep't of Justice, *supra* note 42.

[48] A. Davgun, H. McDaniel, M. Thomas, & J.S. O'Rourke, De Beers Ltd., *Polishing Up Its Brand for the U.S. Market (B)*, THE EUGENE D. FANNING CENTER FOR BUSINESS COMMUNICATION, MENDOZA COLLEGE OF BUSINESS, UNIVERSITY OF NOTRE DAME 2004, 3–4, https://doi.org/10.4135/9781526406095 [https://perma.cc/7H6R-U22M][Hereinafter Davgun (B)].

[49] U.S. Dep't of Justice, *supra* note 42.

[50] *Id.*

for the conspiracy to raise and fix prices for uncut diamonds sold worldwide.[51] De Beers' acceptance of the plea deal allowed the company to expand into new markets, thus, re-opening the pathway for reentry into the United States' diamond market.[52] The guilty plea underscores the efforts to challenge De Beers' monopolistic grip on the diamond industry and the need for regulation to promote increased fair market competition and transparency.

This settlement was significant not only for compensating consumers, but also for addressing the core legal issues tied to the De Beers' monopoly. By forcing De Beers to submit to the jurisdiction of the United States, the settlement provided a way to hold De Beers liable for American antitrust laws.[53] The injunction issued placed limits on De Beers' ability to control the diamond supply, hence, moving the diamond industry to a more competitive market.[54] Prior to the lawsuit, De Beers was prohibited from engaging in direct business within the United States; thus, a consequence of the settlement invited De Beers back into the American legal landscape.[55] These lawsuits flag similar contentions in the context of the *Worth the Wait* campaign. If *Worth the Wait* similarly drives consumer demand for mined diamonds through market manipulation or by re-fostering artificial scarcity, it could potentially

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[51] Stephen Labaton, *De Beers Agrees to Guilty Plea To Re-enter the U.S. Market*, N.Y. TIMES (Jul. 10, 2004), https://www.nytimes.com/2004/07/10/business/de-beers-agrees-to-guilty-plea-to-re-enter-the-us-market.html [https://perma.cc/C2XJ-PKLL] ("The settlement of the criminal case will go a long way toward advancing the company's plan to expand into new markets, although a diamond industry executive said that the company had no immediate plans to change its level of business in the United States."); U.S. Dep't of Justice, *supra* note 42.

[52] Davgun (B), *supra* note 44, at 4 ("The plea agreement came after months of negotiations and will enable De Beers to re-establish itself in the United States, the world's most lucrative market for diamonds, as it looks to new markets and shifts its business focus in response to a declining grip on the production of rough diamonds.").

[53] *Sullivan v. DB Investments – The Third Circuit Takes on the Supreme Court (and Itself)*, MCGUIREWOODS (Jan. 3, 2012) https://www.classactioncountermeasures.com/2012/01/articles/certification/sullivan-v-db-investments-the-third-circuit-takes-on-the-supreme-court-and-itself/ [https://perma.cc/V39H-227B]; Sullivan v. DB Invs., Inc., 667 F.3d 273, 288 (3d Cir. 2011) (to reach settlement, De Beers had to comply and abide by the United States' antitrust laws); Sullivan v. DB Invs., Inc., 613 F.3d 134, 141 (3d Cir. 2010), reh'g en banc granted, opinion vacated, 619 F.3d 287 (3d Cir. 2010), and on reh'g en banc, 667 F.3d 273 (3d Cir. 2011) ("The combined settlement also provided for entry of a stipulated injunction that, among other things, required De Beers to comply with all federal and state antitrust laws, limited De Beers's ability to purchase diamonds from third-party producers, and prohibited De Beers from restricting the geographic territory within which sightholders could resell De Beers diamonds. De Beers also agreed to subject itself to personal jurisdiction in the United States for enforcement of the combined settlement agreement.").

[54] Sullivan v. DB Invs., Inc., 613 F.3d at 141 (3d Cir. 2010).

[55] *Id.* at 140–41; Sullivan v. DB Invs., Inc., 667 F.3d at 288 (3d Cir. 2011).

mirror the antitrust concerns that previously plagued De Beers. This is especially salient if the *Worth the Wait* campaign continues to discourage coemption and undermines consumer choice in the diamond market.

The De Beers lawsuits were several nationwide class actions that sought to end De Beers' monopoly over the diamond market.[56] The cases originated from a series of lawsuits filed between 2001 and 2002.[57] Several plaintiffs alleged that De Beers conspired to monopolize the sale of uncut diamonds through their control of mines and exclusive agreements with suppliers.[58] Although De Beers denied the allegations and initially refused to appear in court, arguing it had no direct business dealings in the United States, De Beers ultimately agreed to settle in 2005 after multiple default judgments were entered against the company.[59] The agreement resulted in a $295 million settlement, with a $130 million allocated directly to consumers who purchased diamonds from De Beers.[60] The settlement imposed an injunction that limited De Beers' ability to further control the diamond supply, thus taking a step toward reducing their monopolistic influence.[61] Furthermore, it forced De Beers' to submit to the jurisdiction of the United States.[62] Through the settlement, U.S. courts not only could force De Beers to acknowledge and comply with American antitrust laws, but also could use the settlement against De Beers as a safeguard against future antitrust misconduct.[63] U.S. courts could use the terms of the settlement to enforce it; thereby creating an

[56] Terry Baynes, *Court Affirms $295 Million De Beers Settlement*, NAT'L LEGAL NEWS FROM REUTERS, Dec. 21, 2011, https://1.next.westlaw.com/Document/Id0534760957011e19fefb85885c303b5/View/FullText.html?transitionType=Default&contextData=(sc.Default)&firstPage=true&bhcp=1 [https://perma.cc/PR2Y-RTRN].

[57] *Id.*

[58] *De Beers Diamonds*, LIEFF CABRASER HEIMANN & BERNSTEIN, https://www.lieffcabraser.com/antitrust/de-beers-diamonds/#:~:text=Sullivan%20v.,DB%20Investments%2C%20No.&text=Plaintiffs%20charged%20that%20De%20Beers,including%20%24130%20million%20to%20consumers [https://perma.cc/4HTU-6QLH]; Baynes, *supra* note 56; Sullivan v. DB Invs., Inc., 667 F.3d at 300 (3d Cir. 2011).

[59] *De Beers Settles Four Lawsuits*, L.A. TIMES ARCHIVES (Dec. 1, 2005), https://www.latimes.com/archives/la-xpm-2005-dec-01-fi-debeers1-story.html [https://perma.cc/E8JS-ZTW3]; Baynes, *supra* note 56; *see also* Rosen, *supra* note 20.

[60] *De Beers Diamonds*, *supra* note 58.

[61] *De Beers Antitrust*, BERMANTOBACCO, https://www.bermantabacco.com/case/de-beers-antitrust/#:~:text=The%20settlement%20was%20significant%20because,of%20diamonds%20in%20the%20future [https://perma.cc/B3BL-5HS3] ("The settlement was significant because it included an agreement by De Beers to submit to the jurisdiction of the U.S. court to enforce the terms of the settlement and a comprehensive injunction limiting De Beers' ability to restrict the worldwide supply of diamonds in the future.").

[62] *Id.; see supra* text accompanying note 53.

[63] *De Beers Antitrust*, *supra* note 61; *see supra* text accompanying note 53.

injunction limiting and influencing De Beers' ability to engage in future anticompetitive practices.[64] This settlement provided an important step toward a more competitive diamond market.[65] However, one issue that these settlements did not account for was competition in the diamond industry between lab-grown diamonds and mined stones. Thus, antitrust similar issues are resurfacing within the context of the *Worth the Wait* campaign if it similarly conflates consumer demand for mined diamonds through market manipulation.

III. SHIFTING CONSUMER PERCEPTION AND BEHAVIOR TOWARD LAB-GROWN DIAMONDS

Lab-grown diamonds have gained popularity due to their affordability and alignment with sustainability values, particularly among younger buyers.[66] The FTC has played a pivotal role in legitimizing lab-grown diamonds by revising its guidelines in 2018 to recognize them as chemically and physically equivalent to mined diamonds, albeit with clear labeling requirements.[67] These developments challenge traditional perceptions of a diamond's value, undermining the exclusivity of mined diamonds, reshaping the industry landscape, and facilitating the consumer shift toward lab-grown diamonds.[68]

A. *The Consumer Attitude and Buying Behavior Shift Toward Lab-Grown Diamonds*

There are several factors driving the growing consumer preference for lab-grown diamonds. The most significant factor is price.[69] A loose lab-grown diamond can cost up to 90% less than a mined diamond.[70] The significant difference in cost is primarily because the lab-grown stones are produced in a

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[64] *De Beers Antitrust*, *supra* note 61; Sullivan v. DB Invs., Inc., 667 F.3d 273, 291–92, 294 (3d Cir. 2011).
[65] *De Beers Antitrust*, *supra* note 61.
[66] Sara Cheng, *The Diamonds Industry: An Investigation on the Competition Post Lab-Grown Diamonds' Entry*, LUISS DEP'T OF ECON. & FIN., 1–48, 24, 32, 37 (2022); Pearl, *supra* note 1.
[67] Federal Trade Commission, *Final Revisions to Jewelry Guides*, *supra* note 3.
[68] Cheng, *supra* note 66, at 24, 32, 37; Pearl, *supra* note 1.
[69] Ayesha Rascoe, *The Lab Grown Diamond Market is Taking Over Wedding Season*, NPR, (Jun. 30, 2024), https://www.npr.org/2024/06/30/nx-s1-5020572/the-lab-grown-diamond-market-is-taking-over-wedding-season [https://perma.cc/2XVX-8GQ4] ("The much lower price point is, by far, the greatest factor driving people to the product").
[70] *Id.*; Megan Cerullo, *Proposing? Here's How Much a Lab-Grown Equivalent to a Natural Diamond Costs — and Why*, CBS MONEYWATCH (Dec. 15, 2023), https://www.cbsnews.com/news/cost-natural-lab-diamond/ [https://perma.cc/NDU2-LBN5].

controlled laboratory environment, simulating the natural processes that create mined diamonds in just a few months or weeks, which allows for quicker production and a larger supply.[71] The low cost of lab-grown diamonds enables consumers, especially younger Zillennials, to afford more intricate designs and larger stones.[72] As the Zillennial generation moves toward the milestone age of engagement and picking rings, Zillennials tend to be more concerned with affordability and aesthetics, and less with antiquated notions around the "rules" of diamond buying. The meaning and appeal of the diamond is not necessarily tied to its origin, but to the aesthetic qualities and sentimental value of the stone.[73]

In addition to the lower price point broadening the lab-grown diamond market for soon-to-be-engaged and marital consumers, lab-grown diamonds are also growing in popularity for consumers to shop for diamonds within the fashion jewelry market.[74] Fashion jewelry, encompassing the non-martial market, is where the lab-grown diamond market is seeing the most growth.[75] For most consumers, mined diamonds were a one-time purchase specifically for engagement or marital jewelry.[76] Now, the commodification of lab-grown diamonds has expanded the market for those seeking to purchase higher quality metals and gemstones for more fashion jewelry pieces such as tennis bracelets, necklaces, and earrings.[77]

The Federal Trade Commission's ruling also contributed to the increased demand for lab-grown diamonds by clarifying their market position as equally "real" as mined diamonds.[78] The pivotal 2018 FTC ruling dropped the term

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[71] Leah Sarnoff, *Are Lab-Grown Diamonds as Sustainable as Advertised?*, ABC NEWS (Apr. 23, 2024), https://abcnews.go.com/Business/lab-grown-diamonds-sustainable-advertised/story?id=109046877 [https://perma.cc/R9V8-E63C]; Amanda Butcher, *Lab-Grown Diamond Production Methods*, INT'L GEM SOC'Y (Feb. 7, 2024), https://www.gemsociety.org/article/lab-grown-diamond-production-methods/ [https://perma.cc/ZBT5-ZLRD].

[72] Pearl, *supra* note 1; Cerullo, *supra* note 70; *see also Signet De Beers to Collaborate*, *supra* note 2 (a discussion on the Zillennial generation moving to be the soon-to-be-engaged generation).

[73] Pearl, *supra* note 1 (as stated by Mary Carmen Gasco-Buisson, chief marketing officer of Pandora Jewelry, a jeweler that only offers lab-grown diamonds in their diamond line: "For most people, a diamond is a diamond, and what you want is the wonderful sparkle and the beauty and the meaning that you can put into a diamond."); *see also* Epstein, *supra* note 31 (a discussion about the courtship ideals and "rules" that derived from the *A Diamond is Forever* campaign).

[74] Pearl, *supra* note 1.

[75] *Id.*

[76] *Id.*

[77] *Id.*

[78] Pamela N. Danziger, *What the FTC Diamond Ruling Means for Consumers and Diamond Marketers*, FORBES, Aug. 2, 2018, https://www.forbes.com/sites/pamdanziger/2018/08/02/what-the-ftc-diamond-ruling-

"natural" from its definition of a diamond.[79] Thus, the FTC no longer defines only naturally-occurring, mined diamonds as "real" diamonds; thereby recognizing that lab-grown diamonds and mined diamonds are both diamonds as they both share the same optical, physical, and chemical properties.[80] This revision aided in the positive marketing and perception of lab-grown diamonds by providing clearer language and helping to establish them as a legitimate alternative to mined diamonds, which in turn has helped shape more favorable consumer attitudes toward the prospect of consumers purchasing an equally real lab-grown diamond over a mined stone.[81]

In addition to their appealing affordability and clarification from the FTC, lab-grown diamonds appeal to consumers due to their alignment with the values of sustainability and ethical sourcing. There is much debate on the true "sustainability" of lab-grown diamonds, due to the large amount of energy lab-grown diamonds require for production. As such, the FTC warns lab-grown diamond producers to not mark them as "sustainable" without adequate disclosure of what exactly makes the stone tout environmental benefits.[82] Lab-

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means-for-consumers-and-diamond-marketers/ [https://perma.cc/L4SC-9HPK] (the FTC ruling benefits lab-grown diamond retailers and consumers. The benefit to consumers is acknowledgment that lab-grown diamonds are just as "real" as mined diamonds but requires their disclosure so that consumers can make informed choices on what stone is best for them).

[79] *Statement of Basis and Purpose: Final Revisions to the Jewelry Guides*, FED. TRADE COMM'N, 139–140 (July 24, 2018), https://www.ftc.gov/system/files/documents/public_statements/1393857/g71001_jewelry_guides_statement_of_basis_and_purpose_final_8-8-18.pdf [https://perma.cc/X3BT-G4XL] [hereinafter *FTC Basis and Purpose*] (the FTC finds in its 2018 revisions that it is unfair to "use of the word "cultured" to describe laboratory-created diamonds that have essentially the same optical, physical, and chemical properties as mined diamonds if the term is qualified by a clear and conspicuous disclosure (for example, the words "laboratory-created," "laboratory-grown," "[manufacturer name]-created," or some other word or phrase of like meaning) conveying that the product is not a mined stone."); Lesley Fair, *"Diamonds and Pearls" – and Revisions to the FTC's Jewelry Guides*, FED. TRADE COMM'N (July 24, 2018), https://www.ftc.gov/business-guidance/blog/2018/07/diamonds-and-pearls-and-revisions-ftcs-jewelry-guides [https://perma.cc/LZ7B-RJPM] (the FTC in an accompanying blog post to the 2018 revisions stated that "To reflect changes in the marketplace and to streamline compliance, the FTC has deleted two provisions that discussed the use of the word "gem," removed a section on misleading illustrations, and eliminated the word "natural" from the definition of diamond in Section 23.12(a).").

[80] *See supra* note 78 and accompanying text.

[81] *Id.*

[82] Sarnoff, *supra* note 71; Lesley Fair & Robert Frisby, *The Many Facets of Advertising Diamonds with Clarity*, FED. TRADE COMM'N (May 3, 2019), https://www.ftc.gov/business-guidance/blog/2019/05/many-facets-advertising-diamonds-clarity [https://perma.cc/AUV3-2SS4] ("The FTC's Guides for the Use of

grown diamonds are not as sustainable as initial marketing may have suggested, but still pose less detrimental impacts that diamonds mining.[83] Mined diamonds also require large amounts of energy to mine, cut, and produce in addition to the further environmental and communal burdens imposed on mining regions.[84] Diamond mining can degrade local ecosystems and negatively impact people within mining regions by contaminating food and water resources.[85] Additionally, mined diamonds are associated with unethical labor practices.[86] The term "blood diamond" gained traction in the 1990s to describe the diamonds which were mined in war-zones and sold to fund violence and perpetuation of human rights abuses.[87] Although the term "blood diamond" was specifically devised to describe mined diamonds whose proceeds were used fund a rebellion group against one's government, the term has gained traction to encompass a broad negative connotation referring to the plethora of human rights abuses, environmental degradation, and depravation of mining regions.[88] Even in countries that are labeled "conflict-free" in the

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Environmental Marketing Claims – the Green Guides – offer advice on how to make environmental claims non-deceptively. Keep two basic principles in mind: 1) Advertisers must have a reasonable basis for any environmental benefit claims they make for their products; and 2) Advertisers must qualify their claims adequately to avoid deception. The Green Guides advise advertisers to avoid making unqualified general environmental benefit claims – for example, "environmentally friendly" – because it is highly unlikely the advertiser can substantiate all reasonable interpretations of these claims. The better practice is for advertisers to qualify a general claim by disclosing the specific reasons why the product has environmental benefits. Section 260.4 of the Green Guides features examples of claims that are appropriately qualified under the circumstances.").

83 Amanda Butcher, *Is Growing Diamonds a Sustainable Alternative to Diamond Mining?* INT'L GEM SOC'Y, https://www.gemsociety.org/article/sustainable-alternative-to-diamond-mining/ [https://perma.cc/4KRG-VPJ4].

84 *Id.*

85 *Id.* ("Diamond mining disturbs a large area around its site, which can greatly harm local ecosystems by polluting the soil and water supplies. For example, hundreds of cattle died after drinking water from the Odzi River in Zimbabwe, located downstream from a diamond processing plant. Similar incidents occur throughout mining regions in Africa with limited water supplies. Local people, livestock, and wildlife have no choice but to drink contaminated water.").

86 Sarnoff, *supra* note 71.

87 Sandra Feder, *Stanford Historian Traces the Colonial Origins of Conflict Diamonds in Namibia*, STAN. REP. (Apr. 6, 2021), https://news.stanford.edu/stories/2021/04/tracing-colonial-origins-conflict-diamonds#:~:text=The%20title%20of%20Press's%20book,%2C%20never%20really%20goes%20away.%E2%80%9D [https://perma.cc/529B-4WUX] (the term "blood diamonds" are used describe diamonds extracted from war zones, usually in African countries).

88 *Blood Diamond*, ENCYCLOPEDIA BRITANNICA, (Nov. 27, 2024) https://www.britannica.com/topic/blood-diamond [https://perma.cc/NVK5-UVNZ] (a

diamond trade, miners and workers are often brutalized and denied basic human rights at the expenses of diamond mining operations.[89] Consumers became aware of the inundate abuses prevalent in the diamond industry, even in companies that labeled their stones as "conflict-free."[90] In contrast, lab-grown diamond pose as a conflict-free alternative to the expansive connotation of abuses associated with "blood diamonds."[91] The ability to purchase a product that reflects sustainability and ethical labor practices resonates strongly with socially conscious consumers, further driving the demand for lab-grown diamonds.[92]

The growing consumer preference toward lab-grown diamonds represents a threat to traditional mined diamonds.[93] Lab-grown diamonds challenge the traditional narrative that the value of a diamond lies in its rarity and natural origin.[94] By offering a more affordable, ethically sourced, and equally defined real alternative, lab-grown diamonds disrupt the long-established diamond market by encouraging the idea that the value of a diamond lies in its given sentimental value as symbolic of a couple's love, not the price of the stone.[95] In the wake of the *Worth the Wait* campaign, lab-grown diamonds not only represent direct competition but also undermine the exclusivity of mined diamonds, which has long been key to their profitability and strategies.[96]

B. *The 2018 FTC Ruling*

In 2018, the FTC revised its jewelry guidelines to expand the definition of a diamond; thus, solidifying the notion that lab-grown diamonds are just as

"blood diamond" as defined by the United Nations is a diamond that is mined in areas controlled by forces opposing the legitimate, internationally recognized government of a country and is sold to finance military action against that government).
[89] *Id.*
[90] Sarnoff, *supra* note 71.
[91] *Id.*
[92] *Id.*; Cheng, *supra* note 66, at 27, 32, 37.
[93] Yusuf Khan, *Diamonds Made with Solar Power Are Offering Fiancées Ethical Fashion*, WSJ (Jan. 10, 2024), https://www.wsj.com/articles/diamonds-made-with-solar-power-are-offering-fiancees-ethical-fashion-475d1c7b [https://perma.cc/8PDP-KHQN] (for many young consumers , the sustainability of lab-grown diamonds in sourcing and manufacturing is a driving force in increasing consumer preference for the stones); Garth Friesen, *Lab-Grown Diamonds Boom: Is It Game Over For Mined Diamonds?*, FORBES (Mar. 22, 2025), https://www.forbes.com/sites/garthfriesen/2025/03/22/lab-grown-diamonds-boom-is-it-game-over-for-mined-diamonds/# [https://perma.cc/T9S6-DQ68] (the lower price for a lab-grown diamond is also driving consumer demand for younger consumers who opt for larger lab-grown diamonds at the same price of a smaller, mined stone).
[94] Khan, *supra* note 93.
[95] Pearl, *supra* note 1; Khan, *supra* note 93; Fair & Frisby, *supra* note 82.
[96] Danziger, *supra* note 78; Sullivan, *supra* note 4.

"real" as mined diamonds due to their exactly similar chemical, physical, and atomic makeup.[97] This ruling helped bolster the paradigm shift in the American psyche around lab-grown diamonds as an acceptable alternative to mined diamonds.[98]

1. *The Expanded Definition of a Diamond*

The FTC currently defines as diamond as "a mineral consisting essentially of pure carbon crystallized in the isometric system."[99] The FTC further positions lab-grown diamonds as having the same optical, physical, and chemical properties as mined diamonds.[100] However, the FTC mandates that lab-grown diamonds—despite their optically, chemically, and physically identical nature to mined stones—must have a "clear and conspicuous disclosure" that they are lab-grown.[101]

The FTC's 2018 revision removed the word "natural" from the previous diamond definition.[102] Prior to 2018, this meant that diamonds had to be naturally occurring—which only included mined stones—thus, excluding lab-grown diamonds and perpetuating a misnomer of labeling them as a separate category.[103] Additionally, the revision also excluded the mandated term "synthetic" before the description of a lab-grown diamond.[104] The FTC and proponents of the 2018 revision argued that "synthetic" inaccurately conflated and misrepresented the lab-grown stone.[105] Terms like "synthetic" in front of lab-grown qualifiers mislead consumers to think that lab-grown diamonds were "fake diamonds " or akin to alternatives, like cut glass, cubic zirconia, or moissanite.[106] This revision reflected changes in the consumer

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[97] Danziger, *supra* note 78; 16 C.F.R. § 23.12.; *FTC Basis and Purpose*, supra note 79, at 94.
[98] Danziger, *supra* note 78; 16 C.F.R. § 23.12.; *FTC Basis and Purpose*, supra note 79, at 94.
[99] 16 C.F.R. § 23.12.; *FTC Basis and Purpose*, *supra* note 79, at 93–94.
[100] 16 C.F.R. § 23.12.; *FTC Basis and Purpose*, supra note 79, at 94 ("the Commission no longer defines a "diamond" by using the term "natural" because it is no longer accurate to define diamonds as "natural" when it is now possible to create products that have essentially the same optical, physical, and chemical properties as mined diamond.").
[101] *FTC Basis and Purpose*, *supra* note 79, at 139–40.
[102] *Id.* at 93–94.
[103] *Id.*
[104] *Id.* at 95; *see also* Danziger, *supra* note 78.
[105] Danziger, *supra* note 78 (synthetic is an inaccurate and confusing term to describe a man-made diamond); *FTC Basis and Purpose*, *supra* note 79, at 94.
[106] Danziger, *supra* note 78 (Jewelry experts and industry jewelers find that the 2018 revision clarifies that simulants, like cubic zirconia and moissanite, cannot be marketed as any type of diamond. This ensures that terms such as "synthetic diamond"

market and provided recognition that lab-grown diamonds possess the same optical, physical, and chemical properties as mined diamonds.[107] This revision was designed by the FTC to streamline compliance and ensure that industry practices align with current consumer expectations, acknowledging the growing acceptance of lab-grown diamonds as equivalent to their mined counterparts.[108]

2. *Fairness in Labeling for both Mined and Lab-Grown Diamonds*

The FTC's requirement that lab-grown diamonds must be clearly labeled serves essential consumer protection functions by preventing potentially misleading or confusing representations.[109] Following the 2018 revisions, the FTC issued several warning letters and published guidelines for marketers emphasizing the need for accurate terminology when describing lab-grown stones, including diamonds.[110] The guidelines require that advertisers clearly disclose when diamonds are not mined, using terms like "laboratory-grown" to differentiate lab-grown and mined diamonds.[111] These disclosures must be prominently placed near the term "diamond."[112] Additionally, environmental claims about lab-grown diamonds must be substantiated with specific reasons and avoid vague terms like "environmentally friendly."[113] This requirement

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or "created diamond" are reserved exclusively for lab-grown diamonds. The ruling further forbids the usage of the term "synthetic diamond" to describe an imitation diamond, like glass, cubic zirconia, or otherwise, further clarifying the position that lab-grown diamonds are as real as mined diamonds).

107 *FTC Basis and Purpose*, *supra* note 79, at 88; Fair, *supra* note 79.

108 *FTC Basis and Purpose*, *supra* note 79, at 91 ("the sole purpose of the Guides is to help marketers avoid deceptive and unfair practices prohibited by Section 5 of the FTC Act.") and 95 (where the guides are made flexible enough to aid consumers with truthful terms around diamonds to inform their purchases, but sellers are responsible for ensuring they do not make deceptive claims in violation of Section 5 of the FTC Act); Danziger, *supra* note 78.

109 Danziger, *supra* note 78.

110 Lesley Fair, *Warning letters re-"mined" diamond sellers to describe products accurately*, FED. TRADE COMM'N (Apr. 2, 2019), https://www.ftc.gov/business-guidance/blog/2019/04/warning-letters-re-mined-diamond-sellers-describe-products-accurately [https://perma.cc/NVT9-7VXN] [hereinafter *Warning Letters*].

111 *Id.*

112 Fair & Frisby, *supra* note 82 ("What matters is that consumers see the disclosure, read it, and understand what it means. That's why advertisers should make those disclosures clearly and conspicuously, and in close proximity to where the ad uses the term "diamond" to describe the jewelry.").

113 *Id.*

aims to prevent consumer deception and promote transparency, ensuring consumers can readily distinguish between mined and lab-grown diamonds.[114]

C. *The NAD Issued Warnings to the Natural Diamond Council on Misleading Claims Against Lab-Grown Diamonds*

In April 2021, the National Advertising Division ("NAD")[115] made a recommendation to the Natural Diamond Council to discontinue certain advertising claims on the benefits of mined diamonds over lab-grown diamonds.[116] The Natural Diamond Council was established to serve a organization to promote the desirability natural diamonds to consumers, with the De Beers Group as a founding member.[117] The Natural Diamond Council's mission is to promote mined diamonds.[118] By addressing misleading claims, such as those regarding the environmental impact, scarcity, and value of diamonds, the NAD helps protect consumer trust and promotes ethical marketing practices within the industry.[119] The NAD is vital to the diamond industry and the FTC because it ensures that advertising claims are truthful, transparent, and substantiated, fostering fair competition among market participants.[120]

In 2021, NAD made a recommendation to the Natural Diamond Council to discontinue certain advertising claims that unfairly and inaccurately compared mined diamonds as superior over lab-grown diamonds.[121] The Natural Diamond Council made several inaccurate claims: one that the carbon

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[114] *Warning Letters*, *supra* note 110 (marketers of lab-grown diamonds must ensure they have reasonable basis for any environmental claim they make about lab-grown diamonds and must keep those claims in accordance with the FTC's Green Guides).

[115] Nat'l Advert. Div. (NAD), Practical Law Glossary Item 0-503-8229 [hereinafter *NAD Glossary*] (NAD is the self-regulatory body for the advertising industry and offers its own dispute resolution process for advertisers and offers independent monitoring and reviewing of national ads for both truthfulness and accuracy. NAD often refers cases to the FTC for review and enforcement).

[116] Nat'l Advert. Div., *National Advertising Division Recommends Natural Diamond Council Discontinue Certain Advertising Claims on Benefits of Mined Versus Man-Made Diamonds*, BBB NAT'L PROGRAMS (Apr. 22, 2021), https://bbbprograms.org/media-center/dd/nad-natural-diamond-council-claims [https://perma.cc/3NHJ-9ZHY].

[117] *Our Mission*, NAT. DIAMOND COUNCIL (last visited Mar. 13, 2025) https://www.naturaldiamonds.com/trade/natural-diamond-council/ [https://perma.cc/8HEZ-7WGG]; DPA Relaunches as the Natural Diamond Council, RAPPORT NEWS (Jun. 1, 2020), https://rapaport.com/news/dpa-relaunches-as-the-natural-diamond-council/ [https://perma.cc/Y8RC-BNAY].

[118] *Our Mission*, *supra* note 117.

[119] Nat'l Advert. Div., *supra* note 116.

[120] *Id.*

[121] *Id.*

emissions associated with lab-grown diamonds were inflated; another that the scarcity and resale value of mined diamonds were far superior than lab-created stones; and that lab-grown diamonds were "fake" as opposed to the "realness" of mined diamonds.[122] NAD found that the evidence that the Natural Diamond Council based their environmental claims on was insufficient to support claims that carbon emissions from lab-grown diamonds were greater than those from mined diamonds.[123] Additionally, NAD determined that the Natural Diamond Council's claims about the increasing scarcity of natural diamonds conveyed a sense of urgency unsupported by evidence, suggesting to consumers that they must act quickly to purchase natural diamonds before prices become prohibitive.[124] Ultimately, NAD found the claims that the Natural Diamond Council made against lab-grown diamonds were inaccurate, based in unreliable data, and insufficient to support such claims regarding the superiority of mined diamond.[125]

NAD also addressed the resale value claims, finding that the Natural Diamond Council's references to lab-grown diamonds lack of resale value was unsupported.[126] While it is permissible to highlight the uniqueness and remarkable natural process regarding the formation of natural diamonds, NAD concluded that the Natural Diamond's Council conflated connection of uniqueness to a higher financial value was misleading.[127] Furthermore, NAD recommended the Natural Diamond Council's discontinuation of claims suggesting lab-grown diamonds are not "real" diamonds, as, per the FTC's ruling, lab-grown diamonds possess the same physical and chemical properties as mined ones.[128] By describing mined diamonds as "real" in a way that implied lab-grown diamonds were fake, the advertising risked conflating lab-grown diamonds with distinctive gems like cubic zirconia, moissanite, or true mock diamonds, like glass cuts.[129] The Natural Diamond Council's issues with the NAD relate to antitrust and consumer protection because their advertising claims could mislead consumers and unfairly disadvantage competitors, particularly manufacturers of lab-grown diamonds. By making unsupported

[122] *Id.*
[123] *Id.*
[124] *Id.*
[125] *Id.*
[126] *Id.*
[127] *Id.* ("NAD noted that while it is not misleading for the Natural Diamond Council to generally refer to mined diamonds as deriving value because they are "rare" or "unique," the advertiser's references to "resale" value reasonably convey an unsupported message about the resale value of man-made diamonds. NAD determined that the Natural Diamond Council may claim that "Natural diamonds obtain their value from their uniqueness and rarity as billion-year-old precious gems older than life itself," provided such claim is not connected to a message about resale value of man-made diamonds.").
[128] *Id.*
[129] *Id.*

claims about the environmental impact, scarcity, and resale value of natural diamonds compared to lab-grown diamonds, the Natural Diamond Council risked creating a false perception of superiority that could distort consumer choices and hinder fair competition in the marketplace, potentially raising antitrust concerns while violating consumer protection principles.[130]

D. *The Decline in Mined Diamond Sales Calls for the Necessity of Regulating the Promotion of Mined and Lab-Grown Diamonds Within the Diamond Industry*

The growing popularity of lab-grown diamonds has caused a steep decline in mined diamond sales, negatively impacting Signet and De Beers, who have responded with aggressive marketing tactics and pricing strategies.[131] Additionally, consumer trust plays a critical role in the evolving diamond market, highlighting the importance of antitrust laws, the FTC, and the NAD as the diamond industry turns to aggressive marketing strategy to bolster sales.[132] Enhanced oversight and regulation are necessary to address misleading claims about the purported superiority of mined stones and ensure an equitable marketplace for both consumers and smaller competitors in the diamond industry.

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[130] *FTC Warning Letters*, *supra* note 43 (the FTC sent warning letters to several companies making unsupported claims about the superiority of mined diamonds over lab-grown diamonds. The FTC further stated that non-compliance with the letters would lead to further administrative action and possible sanctions).

[131] Cecilia Jamasmie, *De Beers, Signet Launch Campaign To Attract Youth To Mined Diamonds Amid Lab-Grown Rise*, MINING.COM (Oct. 16, 2024), https://www.mining.com/de-beers-signet-launch-campaign-to-attract-youth-to-mined-diamonds-amid-lab-grown-rise/ [https://perma.cc/5LYY-HSA7] [hereinafter *Campaign to Attract Youth to Mined Diamonds*]; Cecilia Jamasmie, *De Beers Aims To Rebrand As Top Jewelry Group*, MINING.COM (June 5, 2024), https://www.mining.com/de-beers-aims-to-rebrand-as-top-jewellery-group/ [https://perma.cc/K5MF-TZEK] [hereinafter *De Beers Aims To Rebrand*]; Jinjoo Lee, *Natural Diamonds Had a Rough Year-Some Hope to Restore Their Shine*, THE WALLS ST. J. (Jan. 3, 2025), https://www.wsj.com/business/retail/natural-diamonds-lab-grown-competition-8e3b4f50 [https://perma.cc/B8YC-SC6Y] ("Retailers now need to trade consumers up to a 3-carat lab diamond to get the same gross profit as a 1-to-1.49-carat natural diamond, the report noted. Eventually, retailers might reach a point where they can't upgrade their consumers any more on carat size: It is hard to see 4- or 5-carat engagement rings becoming the norm").

[132] *FTC Basis and Purpose*, *supra* note 79, at 2–3; *NAD Glossary*, *supra* note 115; Afrin Shaikh, *Who Regulates the Lab-Grown Diamond Industry?* FINEGROWNDIAMONDS.COM (Dec. 10, 2024), https://finegrowndiamonds.com/blog/who-regulates-the-lab-grown-diamond-industry [https://perma.cc/QM6G-C4RJ].

1. *Signet and De Beers are Losing Money Against Lab-Grown Diamond Sales*

As lab-grown diamonds gain popularity for their affordability and sustainability, mined diamond prices have plummeted, forcing De Beers to reduce its rough diamond prices and cut-stone output.[133] The downturn has also impacted Signet, whose sales data reveals a growing consumer preference for lab-grown alternatives, particularly among younger buyers.[134] The *Worth the Wait* seeks to stabilize their market positions by emphasizing the forged enduring value while propagandizing on the emotional significance of mined diamonds.

The dramatic decline in lab-grown diamond manufacturing costs, coupled with increasing consumer demand for affordable and larger diamonds, has shifted Signet and De Beers' economic incentives. Signet's recent earnings underscore the shifting consumer preference for lab-grown diamonds as their mined diamond sales decline.[135] Meanwhile, De Beers has responded to weakening demand for natural diamonds with rare price cuts; however, industry professionals speculate that these price cuts were intended to make lab-grown diamonds so cheap in comparison to mined stones.[136] Industry

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133 Lee, *supra* note 131 (De Beers "reduced its rough diamond prices by 10% to 15% at its December sale, according to industry publication Rapaport News. Industry watchers say it is rare for De Beers to cut its own pricing").

134 Jamie Wilde, *Kay Jewelers Parent Signet Fails to Ring Up Growth As Lab-Grown Rocks Sparkle*, SHERWOOD (Dec. 6, 2024), https://sherwood.news/snacks/business/kay-jewelers-parent-signet-fails-to-ring-up-growth-as-lab-grown-rocks/ [https://perma.cc/2BS9-VK3P] (Signet reported disappointing earnings, with quarterly sales declining and fiscal year guidance reduced. The company noted that U.S. engagements remain unpredictable and below pre-COVID levels, with just 2.1 million couples getting engaged last year compared to the pre-pandemic average of 2.8 million. This decline in engagements, paired with the growing popularity of lab-grown diamonds, has challenged Signet's growth); *Signet Jewelers Q3 Sales Decline 3.1% Amid Challenges*, GJEPC (Dec. 10, 2024), https://gjepc.org/news_detail.php?news=signet-jewelers-q3-sales-decline-3-1-amid-challenges-1#:~:text=The%20company%20recorded%20total%20sales,navigating%20a%20competitive%20market%20environment [https://perma.cc/Z6J7-3HVK] (Signet reported Q3 Fiscal 2025 sales of $1.3 billion, a 3.1% decline from the previous year, driven by integration challenges with Blue Nile and James Allen, their primary lab-grown diamond brand lines, and a competitive market environment. Same-store sales fell 0.7%, with operating income dropping to $9.2 million from $13.3 million, while adjusted operating income decreased to $16.2 million).

135 *See supra* text accompanying note 134; Lee, *supra* note 131.

136 Lee, *supra* note 131 ("That race to the bottom could eventually fulfill De Beers' hope of making lab-grown diamonds so cheap that they become a completely different category. Theoretically, if retail margins on lab-grown diamonds fall to natural-

observers speculate that this "race to the bottom" in lab-grown diamond pricing could reframe the category entirely, distinguishing it, in the mind of the consumer, as a fundamentally different, lesser, and cheaper product from mined diamonds.[137] However, this shift raises broader questions about consumer trust and transparency in diamond sales. Historically, De Beers leveraged its market dominance to control supply and stabilize natural diamond prices, thus, consumers turn a skeptical eye toward their team up with Signet in *Worth the Wait*, as the companies claim the partnership is pledged to return mined diamonds as a crown jewel of engagement jewelry.[138]

However, the current market demands more nuanced regulatory frameworks to address the unique challenges posed by lab-grown diamonds. The growing importance of accurate labeling and informed consumer choice highlights the relevance of antitrust laws and guidelines. These measures ensure that consumers can make educated decisions between lab-grown and mined diamonds, fostering a competitive market while preserving trust in the industry.[139] Without proper oversight, the race to arbitrarily differentiate mined and lab-grown diamonds risks further disrupting a competitive diamond industry, undermining both consumer confidence and fair competition.

2. *Maintaining Consumer Trust Through Laws and Regulatory Bodies*

The purpose of antitrust laws and regulatory bodies in the diamond industry is to protect consumers from unfair business practices.[140] These laws and bodies work to prevent businesses from exercising excessive control over markets and consumers by combatting anticompetitive behaviors such as collusion, excessive concentration, price-fixing, elimination of market competition, and predatory pricing.[141] In the diamond industry, and especially in this context where lab-grown diamonds are emerging as direct competitors to mined diamonds, these regulations play a critical role in fostering fair competition and safeguarding consumer choice.[142] The FTC and NAD further

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diamond levels, the price of a high-quality 1-carat lab diamond could retail for as low as $275, Zimnisky notes. That compares with about $4,200 for an equivalent natural diamond").

[137] *Id.*

[138] *Campaign to Attract Youth to Mined Diamonds*, *supra* note 116.

[139] *See FTC Basis and Purpose*, *supra* note 79, at 3–4, 6.

[140] Matthew R. Dorsett, *Diamonds Are a Cartel's Best Friend: The Rise and Fall of Anticompetitive Business Practices within De Beers's International Diamond Cartel*, 16 IND. INT'L & COMP. L. REV., 145, 145 (Jan. 1, 2005), https://doi.org/10.18060/17856 [https://perma.cc/WL5S-X6EJ].

[141] *Id.*

[142] *FTC Basis and Purpose*, *supra* note 79, at 3 (the FTC's Guides provide guidance on avoiding deceptive practices in jewelry marketing. These guides work to interpret

advances these goals by setting and enforcing advertising and labeling standards, ensuring that marketing claims are truthful and not misleading.[143] These regulatory efforts are essential to maintaining consumer trust and promoting an informed marketplace, particularly as the diamond industry continues to evolve.

Apart from just Signet and De Beers, the diamond industry, as a whole, is facing significant disruption as the rise of lab-grown diamonds reshapes consumer preferences and market dynamics.[144] While lab-grown diamond prices are declining due to lower production costs and growing abundance alongside the falling demand for mined diamonds, Signet and De Beers have responded with aggressive marketing and pervasive statements about the alleged superiority of mined diamonds over lab-grown alternatives.[145] This evolving landscape underscores the critical need for antitrust laws and active oversight by the FTC and NAD over Signet and De Beers a critical eye on the rolling *Worth the Wait* campaign. These regulatory bodies play a vital role in ensuring that marketing claims are accurate, preventing monopolistic practices, and maintaining fair competition in a market increasingly defined by the tensions between lab-grown and mined diamonds.[146] Without such oversight, the significant shifts in consumer preferences and the actions of Signet and De Beers could lead to market distortions that may harm consumers and smaller competitors within the diamond market.

IV. TURNING A CRITICAL EYE TO THE PARTNERSHIP BETWEEN SIGNET AND THE DE BEERS GROUP

Despite the efforts of Signet and De Beers to ensure the carefully crafted the language of the campaign on the alleged attributes of mined stones without overtly disparaging lab-grown diamonds, the campaign still raises several legal concerns. First, *Worth the Wait* focuses on the nearly exclusive promotion of natural diamonds, which may constitute anticompetitive behavior or monopolistic practices.[147] This is especially salient because it may

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the FTC's Section 5's prohibition on deceptive acts, advising marketers to consider the overall impression of their advertisements from the perspective of reasonable consumers. These guides work to safeguard and inform informed consumer choices).

[143] *NAD Glossary*, *supra* note 115; *see also* Nat'l Advert. Div., *supra* note 116 (text accompanying note 127).

[144] Lee, *supra* note 131 ("After a post pandemic surge in demand in 2021 and 2022, natural-diamond prices are down about 8% compared with the first quarter of 2020, while lab-grown diamond prices are down 75%, according to data from diamond-industry analyst Paul Zimnisky. Lab-grown diamond prices are declining because the cost of manufacturing them keeps coming down, but weak demand is largely to blame for declining natural-diamond prices").

[145] *Id.*; Fickenscher, *supra* note 16.

[146] Nat'l Advert. Div., *supra* note 116.

[147] Dorsett, *supra* note 140, at 145.

limit consumer choice by positioning mined diamonds as the better choice and suppress the growing lab-grown diamond market.[148] Second, the campaign raises concerns for advertising and consumer protection risks.[149] *Worth the Wait*'s emphasis the uniqueness and timeless value of natural diamonds, much like it's *A Diamond is Forever* predecessor, could potentially mislead consumers.[150] These consumer protection risks are especially salient if the campaign fails to clearly distinguish between natural and lab-grown diamond. Furthermore, misrepresentation about the exclusivity or alleged superior quality of natural diamonds could violate consumer protection laws and the FTC's guidelines against deceptive marketing practices.

A. *The Careful Language of the Worth the Wait Campaign*

Worth the Wait's emphasis on mined diamonds as rare, unique, and inherently valuable raises significant concerns under antitrust and FTC and NAD guidelines, however the campaign is very attentive insofar as it does not explicitly pit lab-grown diamonds and mined diamonds against each other; rather, it strives to focus on the "unique" attribute of mined stones, such as their geographic origin and the awe-inspiring natural process that creates diamonds.[151] However promoting these attributes as intrinsic, worthy qualities of natural diamonds, the campaign risks misleading consumers. The rarity and uniqueness of mined diamonds are, to a large extent, a product of industry-controlled supply constraints rather than inherent scarcity.[152] This messaging could misrepresent natural diamonds as objectively superior to lab-grown diamonds despite having no substantive evidence to support this notion.[153] Such claims may violate the FTC's Jewelry Guides by misleading consumers about monetary worth regarding the quality, origin, or value of a diamond.[154] Similarly, the FTC and NAD has previously admonished advertising campaigns that fail to substantiate superiority claims, such as with the issuance of warning letters and the analysis of the Natural Diamond Council's unsupported claims against lab-grown diamonds.[155]

Furthermore, the portrayal of mined diamonds as "worth the wait" further compounds these issues by suggesting that natural diamonds hold enduring

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[148] *Id.*
[149] Rosen, *supra* note 20; *FTC Warning Letters*, *supra* note 43.
[150] *Signet De Beers to Collaborate*, *supra* note 2; Nat'l Advert. Div., *supra* note 116.
[151] *Signet De Beers to Collaborate*, *supra* note 2; Nat'l Advert. Div., *supra* note 116; FTC *Warning Letters*, *supra* note 43.
[152] *See supra* text accompanying note 14 (a discussion on the business practices contributing to the De Beers' monopoly); *see supra* text accompanying note 31 (about the social perception surrounding the value of diamonds).
[153] *FTC Basis and Purpose*, *supra* note 79, at 83.
[154] *Id.* at 85.
[155] *FTC Warning Letters*, *supra* note 43; SELIGMAN, TERRI & TAYLOR, *Navigating the National Advertising Division*, LANDSLIDE, VOL. 11, NO. 4 (2019).

value, an assertion that may not align with economic realities.[156] The resale value of mined diamonds is insubstantial, most of the value comes from "sentimental" value, which could still be achieved through a lab-grown stone.[157] The FTC has emphasized that advertisers must avoid implications about future value unless substantiated by reliable evidence.[158] Mined diamonds are subject to market fluctuations, and their long-term value is not guaranteed, particularly as consumer preferences shift toward ethical and sustainable alternatives like lab-grown diamonds.[159] Framing mined diamonds as a superior investment while neglecting these nuances could mislead consumers and violate the FTC's guidelines prohibiting deceptive marketing practices.[160] Furthermore, this narrative could stifle competition by marginalizing lab-grown diamonds, raising potential antitrust concerns about whether these tactics unduly suppress fair market competition in favor of the entrenched natural diamond industry.[161]

B. *Signet's Own Efforts in the Wake of the Worth the Wait Campaign*

In the wake of the *Worth the Wait* campaign, Signet Jewelers launched several initiatives to bolster the appeal of mined diamonds over lab-grown diamonds. Signet's CEO framed lab-grown diamonds as inherently lesser from their mined counterparts, describing them as "not rare" and "not special and unique in the same way" but emphasizing their accessibility as a blunder to their appeal.[162] These statements suggest an effort to influence consumer perception by making lab-grown diamonds less desirable and preserving the exclusivity of mined diamonds.[163] Such actions, coupled with the campaign's

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[156] *FTC Basis and Purpose*, *supra* note 79, at 90–91.

[157] *See* Rosen, *supra* note 20 (where the value of diamonds was largely perceived by their cultural significant and extrapolated by the De Beers' monopoly. The high resale value of diamonds is attributed to either sentimental value or heirloom qualities, not the gem itself).

[158] *FTC Basis and Purpose*, *supra* note 79, at 90–91.; *see also* FTC, *FTC Policy Statement Regarding Advertising Substantiation* (Nov. 23, 1984), https://www.ftc.gov/legal-library/browse/ftc-policy-statement-regarding-advertising-substantiation [https://perma.cc/SZ7F-ZNFC].

[159] Zimnisky, *supra* note 1; Rascoe, *supra* note 68; Rosen, *supra* note 20.

[160] *FTC Warning Letters*, *supra* note 43; *FTC Basis and Purpose*, *supra* note 79, at 90–91.

[161] *FTC Warning Letters*, *supra* note 43; *FTC Basis and Purpose*, *supra* note 79, at 90–91.

[162] Lenore Fedow, *Q&A: Signet CEO Gina Drosos on Natural Diamonds*, NAT. JEWELER (Mar. 18, 2024), https://nationaljeweler.com/articles/12737-q-a-signet-ceo-gina-drosos-on-natural-diamonds [https://perma.cc/HP6A-NH82]; Bates, *supra* note 3.

[163] *FTC Warning Letters*, *supra* note 43; *FTC Basis and Purpose*, *supra* note 79, at 90–91.

timing, may raise antitrust concerns by potentially suppressing competition within the diamond market.[164] By steering demand toward mined diamonds and positioning lab-grown diamonds as less valuable, this message could hinder the growth of the lab-grown diamond industry and perpetuate market dominance for mined diamonds.

Signet also adopted measures that may cause potential consumer confusion regarding lab-grown diamonds, including issuing a buyer's warning printed on receipts for lab-grown diamond purchases.[165] This printed statement acknowledges the equivalence of lab-grown diamonds to mined diamonds, as retaining the same properties, but warns customers of the relative abundance of lab-grown diamonds and potential lack of value retention.[166] While this disclosure might appear transparent, it could also be viewed as subtly discouraging lab-grown diamond purchases by emphasizing negative aspects intended to mislead consumers away from lab-grown diamonds.[167]

In conjunction with these efforts, Signet announced a retraining program for its employees, focusing on promoting mined diamonds as part of the broader *Worth the Wait* initiative.[168] Retraining efforts centered around promoting mined diamonds over lab-grown diamonds could raise concerns under both antitrust and consumer protection laws if they effectively devalue lab-grown diamonds in the eyes of customers.[169] These actions might blur the line between permissible marketing strategies and practices that distort market competition or mislead consumers. Whether intentional or not, such efforts may collectively create an environment that favors mined diamonds, potentially disadvantaging lab-grown diamond producers and restrict fair competition for consumers to make an informed choice to purchase a lab-grown diamond.

C. *De Beers' Involvement with the Natural Diamond Council Raises Red Flags to the Company's Vested Interest in Profiting Off Natural Diamonds*

De Beers' role as a founding member of the Natural Diamond Council highlights its vested interest in promoting natural diamonds, potentially at the expense of lab-grown diamonds. Through its tagline, "Only Natural Diamonds," the Natural Diamond Council emphasizes mined diamonds via marketing campaigns, influencer collaborations, and celebrity endorsements,

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164 *FTC Warning Letters*, *supra* note 43.
165 Fickenscher, *supra* note 16.
166 *Id.*
167 *FTC Warning Letters*, *supra* note 43; *FTC Basis and Purpose*, *supra* note 79, at 90.
168 *Signet De Beers to Collaborate*, *supra* note 2; Fickenscher, *supra* note 16.
169 *FTC Warning Letters*, *supra* note 43; *FTC Basis and Purpose*, *supra* note 79, at 90; Danziger, *supra* note 78.

backed by funding from major players in the natural diamond industry.[170] This promotional strategy, coupled with its own guide titled *Diamond Facts Addressing Myths & Misconceptions About the Diamond Industry*, raises questions about compliance with the FTC's Jewelry Guides.[171] In the Natural Diamond Council's guide, it states that lab-grown diamonds are "artificial" and asserts that "a diamond used on its own always means a natural diamond."[172] These statements directly conflict with the FTC's Jewelry Guides. The FTC's Guides clarify that lab-grown diamonds share the same chemical composition and physical properties as mined diamonds and explicitly reserves terms like "artificial" or "simulated" for imitation stones, such as cubic zirconia or moissanite.[173] By labeling lab-grown diamonds as "artificial," the Natural Diamond Council risks conflating them with these imitation stones, diminishing their perceived value and misleading consumers into viewing them as inferior.[174]

Additionally, the guide's claim that "a diamond is a mineral created by nature" mischaracterizes the FTC's definition, which includes both mined and

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[170] *Latest News*, ONLY NAT. DIAMONDS, (last accessed Jan. 11, 2025), https://www.naturaldiamonds.com/ [https://perma.cc/M76L-LV9R] (the NAD plays into celebrity enforcements, much like it did with the *A Diamond is Forever* campaign. Modern day notions call for the NAD to expand out of Hollywood movies and reach influencers to cross multiple generations); Michelle Graff, *The Diamond Producers Association Has a New Name*, NAT. JEWELER (Jun. 03, 2020), https://nationaljeweler.com/articles/5668-the-diamond-producers-association-has-a-new-name [https://perma.cc/9PST-WGLH].

[171] *DIAMOND FACTS Addressing Myths & Misconceptions About the Diamond Industry*, ONLY NAT. DIAMONDS (last accessed Mar. 13, 2025), https://www.naturaldiamonds.com/diamond-faqs/diamond-facts-full-report/ [https://perma.cc/Y22E-FWXA] [hereinafter *DIAMOND FACTS*].

[172] Nat'l Advert. Div., *supra* note 109.

[173] *DIAMOND FACTS, supra* note 171; *FTC Warning Letters*, *supra* note 43; *FTC Basis and Purpose*, *supra* note 79, at 91–92 ("The record indicates many consumers mistakenly believe "synthetic" means an artificial product such as cubic zirconia, which lacks a diamond's optical, physical, and chemical properties" and "If a marketer uses "synthetic" to imply that a competitor's lab-grown diamond is not an actual diamond, however, this would be deceptive.").

[174] *FTC Basis and Purpose*, *supra* note 79, at 94 ("However, the Commission cautions marketers that it would be deceptive to use the terms "real," "genuine," "natural," or "synthetic" to imply that a lab-grown diamond (i.e., a product with essentially the same optical, physical, and chemical properties as a mined diamond) is not, in fact, an actual diamond"); *see also* Nat'l Advert. Div., *supra* note 109 (NAD determined that the use of the word "real" in advertising misleads consumers into thinking that lab-grown diamonds differ chemically and physically from mined diamonds, despite their identical properties. NAD expressed concern that this confusion could cause consumers to conflate lad-grown diamonds with imitation diamonds like moissanite or cubic zirconia. Thus, NAD recommended that the Natural Diamond Council discontinue the misleading claim and clarify that while lab-grown diamonds are made of carbon, they lack the unique qualities of naturally formed diamonds.).

lab-grown diamonds under the broadened term.[175] The Natural Diamond Council's approach reflects a broader effort by the natural diamond industry to marginalize lab-grown diamonds, similar to strategies used in De Beers' historical *A Diamond is Forever* campaign.[176] The strategies in the *A Diamond is Forever* campaign harped on the emotional value of a diamond and engrained it in American society; thus, contriving most of its value from its worth in American engagement cultural norms, not in the monetary value of the stone itself.[177] By emphasizing mined diamonds as superior without obviously disparaging lab-grown options, the Natural Diamond Council treads carefully to avoid outright violations of FTC or NAD guidelines.[178] However, its language choices and promotional efforts could still misinform consumers and contribute to market confusion. While De Beers' association with the Natural Diamond Council does not involve direct sales and is unlikely to constitute an outright violation, its efforts to elevate natural diamonds indirectly—through language and advertising strategies—mirrors the tactics that once solidified the dominance of mined diamonds in the *A Diamond is Forever* campaign.[179]

V. CONCLUSION

While the *Worth the Wait* campaign and related efforts by Signet and De Beers highlight significant legal risks, their broader impact on the market appears limited. Younger consumers, who increasingly prioritize ethical and sustainable practices, are less swayed by the distinction between mined and lab-grown diamonds than the industry seems to hope.[180] Much like De Beers' iconic *A Diamond is Forever* campaign, which cemented the cultural status of mined diamonds as essential symbols of love and commitment, the *Worth the Wait* campaign seeks to evoke similar emotional connections. However, the societal conditions that allowed the original campaign to dominate the market no longer exist, as modern consumers question the ethics, price, and necessity of mined diamonds.[181] The campaign's reliance on emotional connections toward mined diamonds has not meaningfully disrupted the growing

[175] *FTC Basis and Purpose*, *supra* note 79, at 94.
[176] *See supra* the text accompanying notes 19 and 30 (an analysis on indirect marketing); *see also* Epstein, *supra* note 31 (for an analysis of the marketing effort that successfully circled around emotional connections to diamonds in marriage); *but see supra* note 73.
[177] *See supra* text accompanying note 176.
[178] *See supra* text accompanying note 19 and 30 (a discussion on indirect marketing).
[179] *Id.*
[180] Wilde, *supra* note 134; Cheng, *supra* note 66, at 24, 32, and 37.
[181] Martin, *supra* note 19; Kretschmer, *supra* note 20; Lee, *supra* note 131.

acceptance of lab-grown diamonds as viable alternatives.[182] Instead, these initiatives are more likely to attract scrutiny for misleading advertising or improper labeling rather than to reestablish mined diamonds as the reigning crown jewel of a new generation. Thus, Signet and De Beers may face increased regulatory attention from the FTC or further challenges from the NAD for their promotional strategies. However, consumer trends suggest that the industry's attempt to revive the dominance of mined diamonds will likely lose its sparkle, as younger buyers prioritize affordability, environmental impact, and transparency over the traditional allure of mined diamonds.

[182] Rascoe, *supra* note 69 (as Zimnisky states in his interview with NPR, the human desire for rare and valuable objects is deeply ingrained in psychology, making precious gems and metals highly desirable due to their rarity and impracticality. While lab-grown diamonds are priced lower than their natural counterparts, they could attract a new consumer base to the diamond jewelry market. However, the intrinsic value of natural diamonds, linked to their rarity, is unlikely to diminish, despite the affordability of lab-grown alternatives); Zimnisky, *supra* note 1.