

## MEMORANDUM

**From:** Martin J. Hahn  
Steven B. Steinborn  
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**Date:** April 28, 2016

**RE: FTC Takes Action Against “All Natural” and “100% Natural” Claims**

In several recent Federal Trade Commission (FTC or Commission) enforcement proceedings, the Commission has charged companies that sell skin and hair care products and sunscreens with making false “all natural” or “100% natural claims.” The FTC has entered into consent agreements with four companies and has issued an administrative complaint against a fifth for making such claims. These proceedings, as well as FTC statements in a corresponding press release and blog post, indicate that the FTC considers “all natural” or “100% natural” claims to be false or misleading when a product contains any artificial ingredients or chemicals.<sup>1/</sup> These enforcement proceedings are noteworthy because the FTC’s jurisdiction extends to all products, including food and beverages, and they may signal an uptick in enforcement against products that falsely claim to be all or 100 percent natural.

### Challenged Claims

The FTC alleged that each of the five companies falsely claimed that their products—hand and body lotions, shampoos, conditioners, hair styling products, and sunscreens, among others—are “all natural” or “100% natural” when they contain synthetic ingredients. The artificial ingredients the FTC identified in the products included dimethicone, ethylhexyl glycerin, phenoxyethanol, polyethylene, polyquaternium-37, caprylyl glycol, polyquaternium-7, and polyquaternium-11. The FTC did not explain in what amounts these ingredients were present in the products, nor did it discuss the ingredients’ function in the products.

The companies made the claims in their online ads, as well as through third-party websites such as walgreens.com and Walmart.com. Several of the products at issue in the proceedings contained the phrase “all natural” in their product name.

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<sup>1/</sup> FTC, *Four Companies Agree to Stop Falsely Promoting Their Personal-Care Products as “All Natural” or “100% Natural”*; *Fifth is Charged in Commission Complaint* (Apr. 12, 2016), <https://www.ftc.gov/news-events/press-releases/2016/04/four-companies-agree-stop-falsely-promoting-their-personal-care>; Lesley Fair, FTC, *Are your “all natural” claims accurate?* (Apr. 12, 2016), <https://www.ftc.gov/news-events/blogs/business-blog/2016/04/are-your-all-natural-claims-all-accurate>.

Settlement Terms

The four proposed consent orders would restrict the companies from making any claims, unless they are not misleading and supported by competent and reliable evidence, about:

- whether a product is all natural or 100% natural;
- the extent to which a product contains any natural or synthetic ingredient or component;
- the ingredients or composition of a product; or
- the environmental or health benefits of a product. 2/

These restrictions apply not only to any claims made through the labeling or advertising for a product, but also through the use of a product name, trademark, or trade name. The consent orders also recognize that for some claims, competent and reliable *scientific* evidence would be required when professionals in the relevant area would view such evidence as appropriate.

The administrative complaint against the fifth company, which recently entered litigation before an administrative law judge, seeks to impose the same restrictions. 3/

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These enforcement actions indicate that the FTC would consider “all natural” and “100% natural” claims to be misleading when the product contains any artificial ingredients or chemicals. We will continue to monitor FTC and other agency developments related to “natural” claims. Please contact us with any questions.

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2/ The companies that entered into consent orders with the FTC are Trans-India Products, Inc. (d/b/a ShiKai), Erickson Marketing Group Inc. (d/b/a Rocky Mountain Sunscreen), ABS Consumer Products, LLC (d/b/a EDEN BodyWorks), and Beyond Coastal.

3/ The administrative complaint was issued against California Naturel, Inc.