

TRADE PRACTICES ACT 1974

Undertaking to the Australian Competition and Consumer Commission given for
the purposes of section 87B

by

Natural Products of Australia Pty Ltd

ACN 107 425 838

Persons giving this undertaking

- (1) This undertaking is given to the Australian Competition and Consumer Commission (the ACCC) by Natural Products of Australia Pty Ltd (ACN 107 425 838) (**Natural Instinct**) of 11 Newcastle Road, Bayswater in the State of Victoria, under section 87B of the *Trade Practices Act 1974* (Cth) (the **Act**).

Background

- (2) Natural Instinct was incorporated in Victoria on 17 December 2003.
- (3) Since 17 December 2003 Natural Instinct has carried on business in Australia as a manufacturer, wholesaler and distributor of a range of hair and skin care products, and household cleaning products.
- (4) Natural Instinct currently markets its products under the names "Natural Instinct" and "Organic Instinct". The products are primarily sold in pharmacies across Australia, as well as in certain variety stores.
- (5) Cosmetic products sold in Australia, such as the hair and skin care products sold by Natural Instinct, must comply with the prescribed mandatory consumer product information standard applicable to cosmetic products, namely, the Trade Practices (Consumer Product Information Standards) (Cosmetics) Regulations 1991 (the **Standard**).
 - (a) Subregulation 5(1) of the Standard requires the ingredients in a cosmetic product to be listed on the container or the product in descending order by volume or mass.
 - (b) Subregulation 6(2) of the Standard requires the names of the ingredients to be listed in either their English names or their International Nomenclature Cosmetic Ingredient (**INCI**) names.
- (6) The purpose of the Standard is to allow consumers to identify ingredients contained in cosmetic products and to compare products. This is particularly important for consumers with allergies and for consumers who wish to avoid the use of certain chemicals or ingredients.
- (7) Under the Act:
 - (a) section 65D prohibits a corporation from supplying consumer goods that do not comply with a prescribed consumer product information standard, including the Standard;
 - (b) section 52 prohibits misleading or deceptive conduct;
 - (c) section 53(a) prohibits false representations made in relation to the composition of goods; and
 - (d) section 55 prohibits conduct that is liable to mislead the public as to the nature and characteristics of goods.



- (8) It is alleged that Natural Instinct breached section 65D of the Act in the following ways:
- (a) Until on or about 30 June 2008, Natural Instinct omitted the chemicals and ingredients listed in Table A from the list of ingredients on the label of certain Natural Instinct cosmetic products in breach of subregulation 5(1) of the Standard.

TABLE A

Ingredient	Products affected	
Sodium Laureth Sulphate (plant derived)	Baby shampoo Baby bath wash Body wash	Foaming cleanser Hand wash Shampoo
Cocamide DEA	Baby shampoo Body wash Foaming cleanser	Hand wash Shampoo
Cetrimonium Chloride	Baby conditioner	Conditioner
Citric Acid	Baby bath wash Baby conditioner Baby shampoo Baby moisturising lotion Body wash Conditioner Facial scrub	Foaming facial cleanser Hand cream Hand wash Hydrating toner Moisturiser Shampoo

The ACCC is concerned that failure to list the ingredients in Table A resulted in consumers being unaware of all the chemicals and ingredients contained in the products. This prevented consumers from making informed purchasing decisions and from being able to avoid use of certain chemicals and ingredients, especially those to which consumers may be allergic.

- (b) Until on or about 30 June 2008, Natural Instinct failed to list ingredients in descending order by volume or mass on the label of certain Natural Instinct cosmetic products including those listed in Table B as required by subregulation 5(1) of the Standard.

TABLE B

Products affected		
Aloe Vera Gel	Baby bath wash	Baby conditioner
Baby moisturising lotion	Baby shampoo	Body lotion
Body wash	Conditioner	Facial scrub
Foaming facial cleanser	Hand cream	Hand wash
Moisturiser	Shampoo	

The ACCC is concerned that failure to list ingredients in the correct order (i.e. in descending order by volume or mass) may have misled consumers as to the composition of the product, in particular the approximate quantities and concentrations of the ingredients in the products.

- (c) Until on or about 30 June 2008, Natural Instinct did not use the English name or the INCI name for the ingredients listed in Table C on the label of Natural Instinct cosmetic products that contained those ingredients as required by subregulation 6(2) of the Standard.

TABLE C

INCI name	Incorrect name(s) used
Sodium laureth sulphate (plant derived)	Sodium Salt of Laureth 2 Sodium Salt of Sulphonated Laureth 2
Sodium hydroxymethylglycinate	Suttocide
Fragrance (USA) Parfum / Profumo (UE)	Preservative T
Cetrimonium Chloride	Quaternised derivative of palm oil

The ACCC is concerned that using a name other than an English name or INCI name in a list of ingredients prevents consumers from obtaining accurate information about the composition of a product. It also prevents consumers from finding out further information about the nature of the ingredients and chemicals in cosmetic products.

- (9) It is alleged that Natural Instinct breached sections 52, 53(a), 55 by misleading consumers as to the presence and quantities of certain ingredients in Natural Instinct cosmetic products and the composition and characteristics of those products through failing to accurately describe the ingredients in Natural Instinct cosmetic products, in particular by:
- (a) omitting ingredients;
 - (b) failing to list ingredients in descending order by volume and mass; and
 - (c) failing to refer to chemicals and other ingredients by a common English name or INCI name;
- in the lists of ingredients:
- (d) on labels of Natural Instinct cosmetic products available for sale until on or about 30 June 2008; and
 - (e) in brochures distributed by Natural Instinct in stores where Natural Instinct cosmetic products were sold.
- (10) Natural Instinct has taken steps towards removing incorrectly labelled products from sale.
- (11) Natural Instinct states on the labels of its products, as well as in brochures and other advertising material that Natural Instinct cosmetic products are “made with/from 100% pure oils and certified organic herbs”. The ACCC has expressed concern that these statements imply that the products contain significant amounts of herbs and oils, when product formulations provided to the ACCC reveal that some products contain only 0.2% to 0.6% of herbs and oils. The ACCC considers that this conduct may be misleading or deceptive and therefore may breach sections 52, 53(a) and 55 of the Act.
- (12) While, Natural Instinct does not admit that the representation referred to in paragraph 11 breaches the Act, it has amended such representations to state that the products “contain” pure essential oils and organic herbs.

Acknowledgement

- (13) Natural Instinct acknowledges that its conduct described in paragraphs 8 and 9 above may have breached sections 52, 53(a), 55 and 65D of the Act (the **Relevant Sections**).

Commencement

- (14) This undertaking comes into effect when:
- (a) the undertaking is executed by Natural Instinct; and
 - (b) the ACCC accepts the Undertaking so executed.

- (15) Upon the commencement of this Undertaking, Natural Instinct undertakes to assume the obligations set out in paragraphs 17 - 39.

Undertakings

- (16) Natural Instinct makes the following undertakings to the ACCC for the purposes of section 87B of the Act:

Labelling and ingredients

- (17) Natural Instinct will ensure that all cosmetic products it supplies are labelled in accordance with the Standard. In particular Natural Instinct:
- (a) will not omit ingredients from the list of ingredients on the labels of its products;
 - (b) will list all ingredients on the labels of its products in descending order in accordance with subregulation 5(1) of the Standard;
 - (c) in respect of the ingredients listed in Table C above, it will use the INCI name listed in Table C to refer to those ingredients on the labels of its products; and
 - (d) in respect of ingredients other than those listed in Table C above, it will use either the English name or INCI name, to refer to ingredients listed on the labels of its products as is required by section 6(2) of the Standard.
- (18) Within 12 weeks of commencement of this Undertaking, Natural Instinct will either replace or relabel all non-compliant existing stock which is available for sale at its retailers to ensure that it complies with this Undertaking.
- (19) Within 7 days of relabelling all existing stock in accordance with paragraph 18, Natural Instinct will inform the ACCC in writing that the relabelling has been completed.

Advertising and promotional material

- (20) Natural Instinct will ensure that all advertising and promotional material complies with the Act, in particular Natural Instinct will ensure that all brochures listing the ingredients in Natural Instinct cosmetics are accurate and comply with sections 52, 53(a) and 55 of the Act.

Corrective Notices

- (21) Natural Instinct will use its best endeavours to at its own expense place a corrective notice in the form set out in **Annexure A** to this Undertaking in the following newspapers on 19 April 2009, or, failing which, in the next available edition after this date:
- (a) *Sunday Mail* in Queensland;
 - (b) *Sunday Mail* in South Australia;
 - (c) *Sunday Telegraph* in New South Wales,
 - (d) *Sunday Herald Sun* in Victoria;
 - (e) *Sunday Times* in Western Australia; and
 - (f) in the Sunday edition of the largest circulation newspaper in Tasmania and the Northern Territory (the **Newspaper Notice**).
- (22) The Newspaper Notice will be placed:
- (a) if Natural Instinct has previously advertised in the newspaper, in the same section of the newspaper where Natural Instinct has most commonly advertised (the **Newspaper**



Section), for example in the Body & Soul liftout of the *Sunday Mail* (Brisbane and Adelaide), *Sunday Telegraph*, *Sunday Herald Sun*, and *Sunday Times*); or

- (b) if Natural Instinct has not previously advertised in the newspaper, within the first 25 pages of the newspaper.
- (23) The Newspaper Notice will be of at least 15.5 x 9.5 cm in size (or equivalent area) with minimum 9 point font size. The heading of the corrective newspaper advertisement will be at least 2 point font sizes larger than the other text.
- (24) Within 7 days after the publication date of each Newspaper Notice, Natural Instinct will provide the ACCC with a copy of each Newspaper Notice published.
- (25) Natural Instinct will at its own expense place a corrective notice in the form set out in **Annexure A** to this Undertaking edition of the Australian Women's Weekly (the **Magazine Notice**) to be released on or about 22 April 2009.
- (26) The Magazine Notice will:
 - (a) be placed within the "U Section" of the magazine;
 - (b) be at least 15.5 x 9.3 cm in size (or equivalent area);
 - (c) be printed with minimum 9 point font size; and
 - (d) have a heading at least 2 point font sizes larger than the other text.
- (27) Within 7 days after the publication date of the Magazine Notice, Natural Instinct will provide the ACCC with a copy of the Magazine Notice published.
- (28) Natural Instinct will use its best endeavours, including providing the letter in **Annexure B** to each retailer of Natural Instinct products requesting the cooperation of each retailer of Natural Instinct products with respect to the placement of an in-store notice in the form set out in **Annexure A** to this Undertaking within the retailer's premises from the date of publication of the first Newspaper Notice or Magazine Notice, whichever is earlier (the **In-store Notice**).
- (29) The In-store Notice will be:
 - (a) laminated and at least A4 in size;
 - (b) requested to be placed in a prominent position and affixed to the stand or shelves on which Natural Instinct cosmetics are displayed; and
 - (c) requested to be displayed by each retailer for a period of 30 days.
- (30) Within 60 days of the commencement date of this Undertaking, Natural Instinct will provide the ACCC with a report setting out the endeavours that it took to secure placement of the In-store Notice in retail stores, including a list of the retailers contacted and the retailers who have confirmed placement of the In-store Notice in their stores.
- (31) On or before the date of publication of the first Newspaper Notice or Magazine Notice, Natural Instinct will at its own expense place a corrective notice in the form set out in **Annexure C** to this Undertaking on the homepage of the website www.naturalinstinct.com.au (the **Website Notice**).
- (32) The Website Notice will:
 - (a) appear in an automatically generated active pop-up window or message box and will appear immediately upon access to the homepage of the website www.naturalinstinct.com.au;

- (b) be a size that consists of at least 25% of the images on screen;
- (c) be displayed for a continuous period of 4 weeks; and
- (d) contain a hyperlink to the website www.accc.gov.au.

Refunds to consumers

- (33) Natural Instinct will provide a full refund of the full purchase price (or recommended retail price where proof of purchase is not provided) to consumers who contact Natural Instinct within 45 days of the date of publication of the Magazine Notice or final Newspaper Notice, whichever is later (the **Refund Period**) and return the remainder of the affected product with incorrect labelling to Natural Instinct.
- (34) In the event that Natural Instinct receives a request for a refund from a person in response to:
- (a) this Undertaking; or
 - (b) a corrective notice required to be published pursuant to this Undertaking,
- Natural Instinct will refund the full purchase price (or recommended retail price where proof of purchase is not provided) of the affected products to that person, so long as the initial request is received by Natural Instinct within the Refund Period.
- (35) Natural Instinct will set up, maintain and operate a dedicated 1800 telephone number and email address that customers may utilise to seek information about obtaining a full refund for any affected product.
- (36) Natural Instinct will, within 14 days from the end of the Refund Period, provide the ACCC with a report giving details of the total refunds sought, the number of refunds processed and approved and the total value of the refunds.

Compliance program

- (37) Natural Instinct will establish and implement a Trade Practices Compliance Program in accordance with the requirements set out in **Annexure D** for the employees and other persons involved in the Natural Instinct business in Australia within 3 months of commencement of this Undertaking, being a program designed to:
- (a) minimise the risk of Natural Instinct breaching the Act, in particular the Relevant Sections, in the future;
 - (b) ensuring awareness by Natural Instinct of its responsibilities and obligations in relation to the requirements of the Relevant Sections of the Act and the Standard; and
 - (c) have all advertising and promotional material considered by a solicitor with experience in trade practices law before release to ensure compliance with the Act.
- (38) Natural Instinct will maintain and continue to implement the Trade Practices Compliance Program for a period of 3 years from the date of commencement of this Undertaking.
- (39) Natural Instinct will provide, at its own expense, a copy of any documents requested by the ACCC in accordance with Annexure D.

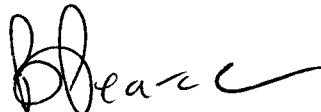
General Acknowledgments

- (40) Natural Instinct acknowledges that the ACCC will make this undertaking available for public inspection.
- (41) Natural Instinct acknowledges that the ACCC will from time to time publicly refer to this undertaking.

(42) Natural Instinct acknowledges that this undertaking in no way derogates from the rights and remedies available to any other person arising from the alleged conduct.

IN WITNESS TO THESE UNDERTAKINGS

Signed for and on behalf of Natural Products of Australia Pty Ltd ACN 107 425 838


Signature of authorised person: 

Office held: *Managing Director*

Name of Authorised Person: *Barry Pearce*

This 23 day of March 2009

ACCEPTED BY THE AUSTRALIAN COMPETITION AND CONSUMER
COMMISSION PURSUANT TO SECTION 87B OF THE TRADE
PRACTICES ACT 1974.


.....

Graeme Julian Samuel

Chairperson

This 8th day of April 2009



Annexure A
NATURAL INSTINCT - CORRECTIVE NOTICE
[INSERT NATURAL INSTINCT LOGO]

Natural Products of Australia Pty Ltd (ACN 107 425 838) (Natural Instinct) is a manufacturer, wholesaler and distributor of a range of hair and skin care products and household cleaning products marketed under the names "Natural Instinct" and "Organic Instinct".

Non-compliant labelling and misleading claims

Following an investigation by the Australian Competition and Consumer Commission (the ACCC), Natural Instinct has acknowledged that it may have breached sections 52, 53(a), 55 and 65D of the *Trade Practices Act 1974* (the Act) in the labelling of some of its products and in brochures distributed by Natural Instinct.

Natural Instinct underwent a change of management in October 2007. The ACCC acknowledges it is likely that some of the conduct described below was initiated by the previous management of Natural Instinct. Natural Instinct's current management is working with the ACCC to rectify these matters.

Until on or about 30 June 2008:

- Natural Instinct did not include **sodium laureth sulphate (plant derived), cocamide DEA, cetrimonium chloride** and **citric acid** as ingredients on the labels of some of its products, as required by the *Trade Practices (Consumer Product Information Standards) (Cosmetic) Regulations 1991* (the Standard).
- Natural Instinct did not list ingredients in the correct order, as required by the Standard.
- Natural Instinct did not correctly name certain chemicals and ingredients, as required by the Standard.

The purpose of the Standard is to allow consumers to identify ingredients contained in cosmetic products and to compare products. This is particularly important for consumers with allergies and for consumers who wish to avoid the use of certain chemicals or ingredients.

Natural Instinct has acknowledged that it may have breached the Act and has entered into an undertaking with the ACCC to place this corrective notice; to cease the contravening conduct; provide refunds to affected customers; and to implement a Trade Practices Compliance Program.

Full details of the Section 87B Undertaking and a list of affected products can be found on the Public Register on the ACCC's website at www.accc.gov.au.

To compensate customers who purchased Natural Instinct products and believe they have been misled, Natural Instinct is offering a refund for the full purchase price of affected products. For more information about claims for refunds contact Edwina Pearce of Natural Instinct on 1800 771 063 or at customerservice@naturalinstinct.com.au by [INSERT final date of Refund Period].



Australian
Competition &
Consumer
Commission

This corrective advertisement has been paid for by Natural Products of Australia Pty Ltd and placed pursuant to an undertaking to the Australian Competition and Consumer Commission given under section 87B of the *Trade Practices Act 1974*.

Annexure B
LETTER TO RETAILERS

[Natural Instinct Letterhead]

[date]

[Retailer Name]

[Retailer Address]

Dear Valued Customer

Natural Instinct Corrective Notice

As you are aware, Natural Instinct underwent a change of management in October 2007.

Following that change of management, the Australian Competition and Consumer Commission (the ACCC) made us aware that Natural Instinct had not complied with the *Trade Practices Act 1974* (the Act) in the labelling of some Natural Instinct products and in brochures that had been distributed by Natural Instinct.

Natural Instinct's current management has been working with the ACCC to rectify those errors including entering into a section 87B undertaking with the ACCC. In that undertaking, Natural Instinct acknowledged that it may have breached sections 52, 53(a), 55 and 65D of the Act, however the ACCC acknowledges that some of the breaches were likely to have been initiated by the previous management.

The purpose of this letter is to inform you of those errors and to seek your cooperation in placing the enclosed laminated corrective notice in your store to inform consumers of these matters.

Prior to 30 June 2008:

- the labels on some Natural Instinct products did not include the ingredients sodium laureth sulphate (plant derived), cocamide DEA, cetrimonium chloride and citric acid, as required by the Standard;
- the labels on some Natural Instinct products did not list ingredients in the correct order, as required by the Standard; and
- the labels on some Natural Instinct products did not correctly name certain ingredients, as required by the Standard.

Natural Instinct has taken steps to rectify the above matters, including relabelling all existing incorrectly labelled product that may remain in your store over the next 12 weeks.

The Corrective Notice

Pursuant to the Undertaking provided to the ACCC, Natural Instinct has undertaken to **request that you place the enclosed laminated corrective notice in your store for a period of 30 days.** The purpose of the notice is to inform consumers that they may have been misled by incorrect labelling on Natural Instinct products or by statements in Natural Instinct brochures, and to provide consumers with information about how to obtain a refund for affected products.

To ensure that these matters are brought to the attention of Natural Instinct's customers, we ask that you place the Corrective Notice in a prominent position by affixing it to the stand or shelves on which Natural Instinct products are displayed.

To assist Natural Instinct report back to the ACCC, please contact Edwina Pearce of Natural Instinct on 1800 771 063 or customerservice@naturalinstinct.com.au to confirm that you have received this letter and placed the Corrective Notice in your store.

Natural Instinct Products

We wish to make it clear that none of the above labelling changes reflect the quality of our products or the actual formulations of our products. Rather they are ensuring that Natural Instinct complies with its obligations to its customers to label its products in accordance with the Standard.

The new management team has taken on board a new role and will continue to receive feedback from its professional advisors to ensure that its customers are fully informed.

Natural Instinct apologises if any of the above causes confusion or inconvenience to any of its customers.

Natural Instinct remains committed to delivering quality products and quality services to its customers.

Yours faithfully

The Directors
Natural Products of Australia Pty Ltd.

Annexure C
NATURAL INSTINCT
CORRECTIVE NOTICE

[INSERT NATURAL INSTINCT LOGO]

Natural Products of Australia Pty Ltd (ACN 107 425 838) (Natural Instinct) is a manufacturer, wholesaler and distributor of a range of hair and skin care products and household cleaning products marketed under the names “Natural Instinct” and “Organic Instinct”.

Non-compliant labelling and misleading claims

Natural Products of Australia Pty Ltd (ACN 107 425 838) (Natural Instinct) is a manufacturer, wholesaler and distributor of a range of hair and skin care products and household cleaning products marketed under the names “Natural Instinct” and “Organic Instinct”.

Non-compliant labelling and misleading claims

Following an investigation by the Australian Competition and Consumer Commission (the ACCC), Natural Instinct has acknowledged that it may have breached sections 52, 53(a), 55 and 65D of the *Trade Practices Act 1974* (the Act) in the labelling of some of its products and in brochures distributed by Natural Instinct.

Natural Instinct underwent a change of management in October 2007. The ACCC acknowledges it is likely that some of the conduct described below was initiated by the previous management of Natural Instinct. Natural Instinct’s current management is working with the ACCC to rectify these matters.

Until on or about 30 June 2008:

- Natural Instinct did not include **sodium laureth sulphate (plant derived), cocamide DEA, cetrimonium chloride** and **citric acid** as ingredients on the labels of the products listed in Table A, as required by the *Trade Practices (Consumer Product Information Standards) (Cosmetic) Regulations 1991* (the Standard).

TABLE A

Ingredient	Products affected	
Sodium Laureth Sulphate (plant derived)	Baby shampoo	Foaming cleanser
	Baby bath wash	Hand wash
	Body wash	Shampoo
Cocamide DEA	Baby shampoo	Hand wash
	Body wash	Shampoo
	Foaming cleanser	
Cetrimonium Chloride	Baby conditioner	Conditioner
Citric Acid	Baby bath wash	Foaming facial cleanser
	Baby conditioner	Hand cream
	Baby shampoo	Hand wash
	Baby moisturising lotion	Hydrating toner
	Body wash	Moisturiser
	Conditioner	Shampoo
	Facial scrub	

- Natural Instinct did not list ingredients in the correct order on the products listed in Table B, as required by the Standard.

TABLE B

Products affected		
Aloe Vera Gel	Baby bath wash	Baby conditioner
Baby moisturising lotion	Baby shampoo	Body lotion
Body wash	Conditioner	Facial scrub
Foaming facial cleanser	Hand cream	Hand wash
Moisturiser	Shampoo.	

- Natural Instinct did not correctly name the chemicals and ingredients listed in Table C, as required by the Standard

TABLE C

INCI name	Incorrect name(s) used
Sodium laureth sulphate (plant derived)	Sodium Salt of Laureth 2 Sodium Salt of Sulphonated Laureth 2
Sodium hydroxymethylglycinate	Suttocide
Fragrance (USA) Parfum / Profumo (UE)	Preservative T
Cetrimonium Chloride	Quaternised derivative of palm oil

The purpose of the Standard is to allow consumers to identify ingredients contained in cosmetic products and to compare products. This is particularly important for consumers with allergies and for consumers who wish to avoid the use of certain chemicals or ingredients.

Natural Instinct has acknowledged that it may have breached the Act and has entered into an undertaking with the ACCC to place this corrective notice; to cease the contravening conduct; provide refunds to affected customers; and to implement a Trade Practices Compliance Program.

Full details of the Section 87B Undertaking and a list of affected products can be found on the Public Register on the ACCC's website at www.accc.gov.au.

To compensate customers who purchased Natural Instinct products and believe they have been misled, Natural Instinct is offering a refund for the full purchase price of affected products. For more information about claims for refunds contact Edwina Pearce of Natural Instinct on 1800 771 063 or at customerservice@naturalinstinct.com.au by [INSERT final date of the Refund Period].



**Australian
Competition &
Consumer
Commission**

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Annexure D

Trade Practices Compliance Program

Natural Products of Australia Pty Ltd ACN 107 425 838 (**Natural Instinct**) will establish and implement a Trade Practices Compliance Program (the **Compliance Program**) that complies with each of the following requirements:

Appointments

1. Within 1 month of the date of the Undertaking coming into effect Natural Instinct will appoint a Director or a Senior Manager of the business to be responsible for the development, implementation and maintenance of the Compliance Program (the **Compliance Officer**).

Compliance Officer Training

2. Natural Instinct will ensure that, within 3 months of the Undertaking coming into effect, the Compliance Officer attends practical trade practices training focusing on:
 - 2.1 Part V, Division 1 of the *Trade Practices Act 1974* (the **Act**), in particular sections 52, 53(a) and 55;
 - 2.2 Part V, Division 1A of the Act, in particular section 65D of the Act; and
 - 2.3 the Trade Practices (Consumer Product Information Standards) (Cosmetic) Regulations 1991 (the **Standard**).
3. Natural Instinct will ensure that the training is administered by a suitably qualified compliance professional or legal practitioner with expertise in trade practices law.
4. Natural Instinct, within 14 days of completion of training, will provide the Australian Competition and Consumer Commission (the ACCC) with a written statement from the compliance professional or legal practitioner confirming the completion of the training conducted in accordance with paragraphs 2 and 3 above.

Compliance Policy

5. Natural Instinct will, within 3 months of the Undertaking coming into effect, issue a policy statement confirming Natural Product's commitment to trade practices compliance (the **Compliance Policy**). Natural Instinct will ensure that the Compliance Policy:
 - 5.1 is written in plain language;
 - 5.2 contains a statement of commitment to compliance with the Act;
 - 5.3 contains a strategic outline of how commitment to trade practices compliance will be realised within Natural Instinct;
 - 5.4 contains a requirement for all staff to report any compliance related issues and trade practices compliance concerns to the Compliance Officer;
 - 5.5 contains a guarantee that whistleblowers will not be prosecuted or disadvantaged in any way and that their reports will be kept confidential and secure;
 - 5.6 contains a clear statement that Natural Instinct will take action internally against any persons who are knowingly or recklessly concerned in a contravention of the Act and will not indemnify them; and

- 5.7 contains a requirement that all advertising and promotional material must be considered by a solicitor with experience in trade practices law before publication to ensure compliance with the Act.

Staff Training

6. Natural Instinct will cause all executive directors, officers, the Compliance Officer and managers whose duties could result in them being concerned with conduct that may contravene the Relevant Sections to receive regular (at least once a year) practical trade practices training by a suitably qualified compliance professional or legal practitioner with experience in trade practices law that focuses on the Relevant Sections of the Act.
7. Natural Instinct will ensure that the Compliance Program includes a requirement that awareness of trade practices compliance issues forms part of the induction of all new employees whose duties could result in them being concerned with conduct that may contravene the Relevant Sections of the Act.

Complaints handling

8. Natural Instinct will:
- 8.1 develop procedures for recording, storing and responding to trade practices complaints within 2 months of the Undertaking coming into effect; and
- 8.2 provide the ACCC with an outline of the complaints handling system within 2 months of the Undertaking coming into effect.

Product Labelling

9. Natural Instinct will:
- 9.1 maintain up-to-date copies, at its business premises, of all prescribed consumer product safety standards and prescribed consumer information standards, including the Standard, that relate to the products Natural Instinct supplies;
- 9.2 ensure that the products supplied that are subject to a prescribed safety and/or information standard under the Act comply with the relevant standard;
- 9.3 ensure that all its products are labelled in accordance with the Standard and, in particular, that:
- (a) it does not omit ingredients from the list of ingredients on the label of its products as required by the Standard;
- (b) it lists ingredients on the labels of its products in descending order as required by the Standard; and
- (c) it uses either the English name or the International Nomenclature Cosmetic Ingredient (INCI) names for ingredients in the ingredient lists of the labels of its products as is required by the Standard (other than those ingredients referred to in Table C of the Undertaking, which must be referred to by the INCI name listed in Table C); and
- 9.4 develop, implement and maintain recall procedures that enable products supplied by Natural Instinct to be efficiently and effectively withdrawn from the market and returned to Natural Instinct.

Reports to Board / Senior Management

10. Natural Instinct will ensure that the Compliance Officer reports to the Board and/or Senior Management meetings at least once every 6 months on the continuing effectiveness of the Compliance Program.

Documents or Information

11. If requested by the ACCC, Natural Instinct will, at its own expense, provide copies of documents and information in respect of matters which are the subject of the Compliance Program.

Definition

12. In this document **Relevant Sections** means:

- 12.1 Part V, Division 1 of the Act, in particular sections 52, 53(a) and 55; and
- 12.2 Part V, Division 1A of the Act, in particular section 65D of the Act.