Analysis of Proposed Consent Order to Aid Public Comment
In the Matter of Sunday Riley Modern Skincare, LLC, File No. 192-3008

The Federal Trade Commission ("FTC" or "Commission") has accepted, subject to final approval, an agreement containing a consent order from Sunday Riley Modern Skincare, LLC ("Sunday Riley Skincare") and its Chief Executive Officer, Ms. Sunday Riley (collectively "respondents").

The proposed consent order ("order") has been placed on the public record for 30 days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the order and the comments received, and will decide whether it should withdraw the order or make it final.

This matter involves the respondents' marketing of their Sunday Riley brand cosmetic products. The respondents have sold their cosmetic products through Sephora's website, www.sephora.com, which provides consumers the opportunity to leave product reviews. According to the complaint, on multiple occasions, Sunday Riley Skincare managers, including Ms. Riley, posted reviews of Sunday Riley brand cosmetic products on the Sephora website using fake accounts created just for that purpose or requested that other employees do so. The complaint alleges that the respondents violated Section 5(a) of the FTC Act by misrepresenting that certain reviews of Sunday Riley brand products on the Sephora website reflected the independent experiences or opinions of impartial ordinary users of the products, when they were written by Ms. Riley and her employees. The complaint further alleges that the respondents deceptively failed to disclose that certain online consumer reviews were written by Ms. Riley or her employees.

The order contains provisions designed to prevent the respondents from engaging in similar acts and practices in the future.

Provision I prohibits the respondents, in connection with the sale of any product, from misrepresenting the status of any endorser or person providing a review of the product, including misrepresenting that the endorser or reviewer is an independent or ordinary user of the product.

Provision II prohibits the respondents from making any representation about any consumer or other endorser of a product without disclosing, clearly and conspicuously, and in close proximity to that representation, any unexpected material connection between the consumer or endorser and (1) any respondent, or (2) any other individual or entity affiliated with the product. The order defines the terms "clearly and conspicuously," "close proximity," and "unexpected material connection."

Provision III requires that the respondents instruct their employees, officers, and agents as to their responsibilities for disclosing their connections to any respondent's product they endorse and that the respondents obtain signed acknowledgements from them. **Provision IV** mandates that the respondents acknowledge receipt of the order, distribute the order to principals, officers, and certain employees and agents, and obtain signed acknowledgments from them. **Provision V** requires that the respondents submit compliance reports to the FTC one year after the order’s issuance and submit notifications when certain events occur. **Provision VI** requires the respondents to create certain records for twenty years and retain them for five years. **Provision VII** provides for the FTC’s continued compliance monitoring of the respondents’ activity during the order’s effective dates. **Provision VIII** provides the effective dates of the order, including that, with exceptions, the order will terminate in 20 years.

The purpose of this analysis is to facilitate public comment on the order, and it is not intended to constitute an official interpretation of the complaint or order, or to modify the order’s terms in any way.