

**Analysis of Proposed Consent Order to Aid Public Comment**  
***In the Matter of Nice-Pak Products, Inc., File No. 132-3272***

The Federal Trade Commission (“FTC” or “Commission”) has accepted, subject to final approval, an agreement containing consent order from Nice-Pak Products, Inc. (“Nice-Pak”).

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

Nice-Pak is a manufacturer of “flushable” moist toilet tissue made from non-elemental chlorine bleached wood pulp, bicomponent fibers and EP907 repulpable binder. It advertised the flushable moist toilet tissue as being safe for sewer and septic systems, and breaking apart shortly after flushing. The Commission’s complaint, however, alleges that Nice-Pak did not have adequate substantiation for the claims, because its substantiation did not accurately reflect the real-world conditions that the moist toilet tissue encounters after flushing. In addition, the complaint alleges that Nice-Pak provided retailers, such as Costco, CVS, Target, and BJ’s, that sold the Nice-Pak flushable moist toilet tissue under their private labels with the inadequate substantiation and the retailers then repeated the unsubstantiated claims.

The proposed consent order contains provisions designed to prevent Nice-Pak from engaging in similar acts or practices in the future.

**Part I** of the order prohibits Nice-Pak from misrepresenting that any wipe is safe to flush unless Nice-Pak’s substantiation demonstrates that the wipe will disperse in a sufficiently short amount of time after flushing to avoid clogging or other operational problems in household and municipal sewage lines, septic systems and other standard wastewater equipment, and that those tests substantially replicate the physical conditions of the environment the wipe will be disposed in.

**Part II** of the proposed order prohibits Nice-Pak from making any representation about moist toilet tissue unless the representation is non-misleading, and, at the time it is made, Nice-Pak possesses and relies upon competent and reliable evidence that substantiates the representation.

**Part III** of the proposed order prohibits Nice-Pak from providing the means and instrumentalities to others to make the representations that Nice-Pak would be prohibited from making by Parts I and II of the proposed order.

**Part IV** of the proposed order contains recordkeeping requirements for advertisements and substantiation relevant to representations covered by Parts I through III of the order.

**Parts V, VII and VIII** of the proposed order require Nice-Pak to: deliver a copy of the order to certain personnel having managerial responsibilities with respect to the subject matter of the order; notify the Commission of changes in corporate structure that might affect compliance obligations under the order; and file compliance reports with the Commission.

**Part VI** of the proposed order requires Nice-Pak to provide notice of the order to its private label customers.

**Part IX** of the proposed order provides that the order will terminate after twenty (20) years, with certain exceptions.

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