

**UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION**

**COMMISSIONERS:**      **Edith Ramirez, Chairwoman**  
                                 **Julie Brill**  
                                 **Maureen K. Ohlhausen**  
                                 **Terrell McSweeney**

**In the Matter of**

**NICE-PAK PRODUCTS, INC., a corporation.,  
d/b/a NICE-PAK.**

**DOCKET NO. C-4556**

**COMPLAINT**

The Federal Trade Commission, having reason to believe that Nice-Pak Products, Inc., a corporation (“Respondent”), has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Nice-Pak Products, Inc. (“Nice-Pak”), also doing business as Nice-Pak, is a New York corporation with its principal office or place of business at Two Nice-Pak Park, Orangeburg, NY 10962-1376.
2. Respondent Nice-Pak has packaged, labeled, advertised, offered for sale, sold, or distributed moist toilet tissue, a personal hygiene product, throughout the United States. This moist toilet tissue is composed of non-woven fabric, specifically non-elemental chlorine bleached wood pulp, bicomponent fibers, and EP907 repulpable binder (the “Nice-Pak wipe”). Because of their composition, non-woven fabrics do not break down in water in a reasonably short amount of time. As a result, products made from them can clog household plumbing systems, household septic systems, public sewer systems, and sewage treatment plant systems after being flushed.
3. The acts and practices of Respondent alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.

## Respondent's Business Activities

4. Respondent disseminated to trade customers materials purporting to substantiate certain claims for its Nice-Pak Wipes. These materials concerned tests which did not accurately reflect real-world conditions Nice-Pak Wipes would encounter after being flushed (i.e., conditions that exist in household toilets, plumbing, or septic systems, or in public sewer systems or public wastewater treatment facilities). Moreover, alone or in concert with others, Respondent developed unsubstantiated flushability claims for use by its trade customers based on this purported substantiation. Through these means, Respondent provided trade customers with the means and instrumentalities to deceive consumers by disseminating these unsubstantiated flushability claims in marketing Respondent's Nice-Pak Wipes under private labels, such as Costco's Kirkland Signature Moist Flushable Wipes, CVS's Flushable Cleansing Wipes, Target's Up & Up Flushable Moist Wipes, and BJ's Family & Toddler Moist Wipes.

5. Alone or in concert with others, Respondent has disseminated or has caused to be disseminated advertisements, packaging, labeling, and purported substantiation materials for its Nice-Pak Wipes, including but not necessarily limited to the attached Exhibit A. This material contains the following statements and depictions:

A. Exhibit A, product label:

“Kirkland Signature moist flushable wipes”

“Safe for Sewer & Septic”

“Kirkland Signature Moist Flushable Wipes are ... safe for sewer and septic systems because they begin to break down after flushing.”

The label also contains the following depiction, which includes the statement, “BREAKS APART after flushing”:



## Count I

### **Unsubstantiated Performance Claims**

6. In connection with the advertising, labeling, packaging, promotion, offering for sale, sale, or distribution of the Nice-Pak Wipes, Respondent has represented, directly or indirectly, expressly or by implication, that:

- A. The Nice-Pak Wipes are safe for sewer systems;
- B. The Nice-Pak Wipes are safe for septic systems;
- C. The Nice-Pak Wipes break apart shortly after flushing; and
- D. The Nice-Pak Wipes are safe to flush; that is, they are safe for household plumbing systems, household septic systems, and public sewer systems.

7. The representations set forth in Paragraph 6 were not substantiated at the time the representations were made.

## **Count II**

### **Means and Instrumentalities**

8. Respondent has provided to its trade customers advertising, labeling, packaging, or purported substantiation materials referred to in Paragraphs 4 and 5 which contain, among other things, unsubstantiated representations, as described in Paragraph 6, above.

9. By providing its trade customers with these advertising, labeling, packaging, or purported substantiation materials, Respondent has provided its trade customers the means and instrumentalities for the commission of deceptive acts and practices.

### **Violations of Section 5**

10. The acts and practices of Respondent as alleged in this complaint constitute unfair or deceptive acts or practices, in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

**THEREFORE**, the Federal Trade Commission this thirtieth day of October, 2015, has issued this Complaint against Respondent.

By the Commission.

Donald S. Clark  
Secretary

SEAL: