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OFFICE OF FAIR TRADING

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The Producer Responsibility Obligations  
(Packaging Waste) Regulations 1997

# Wespack

**A report by the Director General of Fair Trading on the  
competition scrutiny of the Wespack compliance scheme**

**August 1997**

# WESPACK

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## **1 GENERAL SUMMARY**

- 1.1 I am authorised by the Director General of Fair Trading under paragraph 7 of Schedule 1 to the Fair Trading Act 1973 to carry out a competition scrutiny of the Wespack compliance scheme as required by regulation 31 of the Producer Responsibility Obligations (Packaging Waste) Regulations 1997 (the Regulations). This is my report.
- 1.2 Wespack intends, at least initially, to operate as a small-scale compliance scheme catering for up to 10 members in its first year.
- 1.3 The Office is content that the Wespack scheme meets the requirements of the competition scrutiny under the Regulations: that is to say, it does not have, and is not likely to have, the effect of restricting, distorting or preventing competition, and it does not lead, and is not likely to lead, to an abuse of market power.
- 1.4 I therefore recommend that you should advise the Environment Agency in accordance with regulation 31(5) that you are satisfied that the Wespack scheme meets the requirements of the competition scrutiny.

## **2 THE WESPACK SCHEME**

- 2.1 Waste Exchange Services Limited (WES) is an industrial recycling consultancy based in Stockton-on-Tees, which intends to set up a compliance scheme, Wespack, under the Producer Responsibility (Packaging Waste) Regulations 1997.
- 2.2. WES is a relatively small company with an annual turnover of about £500,000. It operates a national waste exchange system which matches waste holders and waste recyclers using a computer database. This deals with hazardous and chemical waste, as well as manufacturing and commercial waste including large quantities of plastic, paper and other packaging materials. In addition to the waste exchange, WES also offers recycling consultancy services and operates a silica gel recycling plant.
- 2.3 Wespack is to be set up on a cross material basis - accepting as members and discharging the obligations of companies irrespective of the type or types of packaging material they handle. However, it is deliberately aimed at firms which have significant volumes of packaging waste arisings on site which need to be disposed of and such firms will be given preference when selecting members.
- 2.4 The scheme intends to operate, at least initially, on a small scale and will admit only ten members in the first year (to April 1998), fifteen members in the second, and thirty in the third year. It anticipates being able to manage a membership of up to 100 when the thresholds of the Regulations are lowered in April 2000.
- 2.5 WES plans to set up a 'recycling centre' which will carry out operations such as the shredding and baling of waste. WES also intends to establish a small polyethylene film reprocessing facility at its premises in Stockton-on-Tees. Materials for recycling will be sourced mainly from local companies, many of whom will not be obligated under the Regulations. It is intended that the facility should be accredited as a reprocessor, and evidence of recycling from material provided by non-obligated companies will be passed to Wespack. It is anticipated that the plant will be operational by the first quarter of 1998.
- 2.6 Once a firm has been accepted as a member, WES staff will visit its sites and carry out an inventory of the packaging waste used by that member in order to calculate its obligation and assess how much of its obligation can be met through recovery of waste arisings on site. They will also agree a collection system for this material. Wespack will then recommend a recovery or recycling route for the firm's own waste arisings and make arrangements for transport and the securing of PRNs. Members may express a preference for using a particular firm if they wish.

- 2.7 Wespac believe that the scheme's obligations can be met entirely from the own-waste of members, but it is intended that any shortfall will be met by Wespac using waste from its waste exchange database. This includes details of packaging wastes generated by non-obligated companies. Wespac also considers that it may be able to obtain PRNs through material collected at its recycling centre and through its plastics reprocessing plant, once these have been set up. Finally, as a measure of last resort, Wespac will enter into negotiations with reprocessors for the purchase of PRNs should the need arise. The charges for these will be passed on to those members with a shortfall 'at cost'.
- 2.8 Members will be charged a one-off joining fee of £1,500 (which in subsequent years will be fixed at the rate set by the Environment Agency for re-registration) and a monthly fee of £500 per site which will cover the administration costs of managing the member's obligation but will not include other costs of installing equipment on site to facilitate collection (eg balers), transport costs, or any costs associated with acquiring PRNs. Members will be credited with any income which Wespac gains from the recovery or recycling of their own waste.
- 2.9 Members may leave the scheme at any time after giving 60 days' notice. Wespac may terminate membership if, for example, a member takes repeated actions which result in Wespac incurring extra charges or if the member refuses to make any serious attempt to collect, segregate or transfer material making recovery or recycling difficult.
- 2.10 Further information on the markets for the various waste streams covered by the Regulations is given in the Director General's July 1997 report on his competition scrutiny of the Valpak compliance scheme. Background information on the waste management sector is provided in the August 1997 report on the Jempac compliance scheme.

### **3 ASSESSMENT AND RECOMMENDATION**

- 3.1 Wespack is to operate as a small-scale compliance scheme. The most direct competition it will face will be from other compliance schemes and it will face competition for members primarily from the large scale cross-sectoral national schemes, which include Valpak, Biffpack and Wastepack. Obligated companies also have the option of arranging to discharge their obligation themselves (the ‘individual route’) or they may be able to arrange for a waste management company to obtain PRNs on their behalf.

#### **Barriers to entry**

- 3.2 As discussed in advice on previous competition scrutinies carried out by this Office, the main barriers to market entry are the negotiation of exclusive contracts for reprocessors’ facilities and the ease with which members can leave the scheme. Wespack has told this Office that it does not have, nor does it intend to seek to negotiate, any exclusive contracts with reprocessors. Wespack’s members may leave the scheme after giving 60 day’s written notice. It is unlikely that competition between schemes for new members will be restricted by Wespack in this way.

#### **Conclusions**

- 3.3 Wespack is unlikely to have significant market power. The scheme is primarily aimed at those obligated companies with access to large amounts of own-waste. Even though it is designed to appeal to these companies, it is likely to face strong competition for such obligations from other, larger schemes, such as Valpak, Biffpack and Wastepack. Wespack is unlikely, therefore, to be able significantly to distort competition by discriminating as to which firms it accepts as members or through the fees it charges.
- 3.4 Wespack does not have or intend to enter into any exclusive contracts with reprocessors. It does, however, intend to operate as a reprocessor but this is only likely to be on a very small scale. Wespack is therefore unlikely to tie up reprocessing capacity or to have significant market power and it does not appear that it will restrict, distort or prevent competition.

## **Recommendation**

- 3.5 I recommend that you should advise the Environment Agency, in accordance with regulation 31(5), that you are satisfied that the Wespac scheme meets the requirements of the competition scrutiny.

August 1997

**H L Emden**  
**Assistant Director, Competition Policy Division**  
**for the Director General of Fair Trading**