

Case report 02/2020: Inconsistent volumes in declarations of completeness for 2018

Osnabrück, 14 April 2020

What is the reason for our case report?

The Zentrale Stelle Verpackungsregister (Central Agency Packaging Register – ZSVR) checks the declarations of completeness filed pursuant to section 11 (3) VerpackG (Packaging Act). In these checks, particular attention is paid to consistency with the data reports under section 10 VerpackG and annual reports under section 20 (1) no.2 VerpackG. Having checked declarations of completeness filed under the Verpackungsverordnung (Packaging Ordinance – VerpackV) for the 2018 reference year, the ZSVR concluded that the volumes filed by producers through their declarations of completeness pursuant to section 10 VerpackV did not align with the volumes reported by systems in various cases.

What happened?

Nonetheless, the registered expert or other auditors the producers had commissioned to audit and confirm the declarations of completeness granted unqualified opinions in the cases investigated by the ZSVR. The declarations were confirmed even though the documentation and reporting data at hand showed material inconsistencies between the producer data under section 10 VerpackV and the system reports for this producer.

What are the grounds to suspect gross breaches of the audit guidelines?

The ZSVR's declaration of completeness audit guidelines for the 2018 reference year require audit activities to be completed with a final review of volumes subject to system participation (audit area 9). This includes ensuring 'conformity in the comparison between the reporting volumes pursuant to section 10 (1) of the year-end report and the figure in the relevant confirmation generated by the system'.

With an unqualified opinion despite evident differences in volumes, the registered experts or other auditors violated the declaration of completeness audit guidelines in gross breach of duty.

The main goal of the provision in section 11 VerpackG governing declarations of completeness is to make the producers of packaging subject to system participation fully and accurately accountable for their system participation requirement. The wording of section 26 (1) no. 4 VerpackG is conclusive in that, in the case of declarations of completeness, the volumes from data reports under section 10 VerpackG must be consistent with the annual reports under section 20 (1) no. 2 VerpackG. Likewise, the information provided by producers in a declaration of completeness must be consistent with the information in system reports. The audit reports did not contain explanations for or discussions of these inconsistencies, and an unqualified opinion was given in spite of them.

What are the repercussions?

The ZSVR has the power under section 26 (1) no. 27 in conjunction with section 27 (4) VerpackG to remove a registered expert or other auditor from the register of auditors for up to three years if that expert or auditor repeatedly and in gross breach of duty violated the audit guidelines that were developed in agreement with the German Federal Cartel Office the development under section 26 (1) no. 28 VerpackG.

The experts and auditors in question received hearing notifications from the ZSVR. They may face removal from the register of auditors.
