

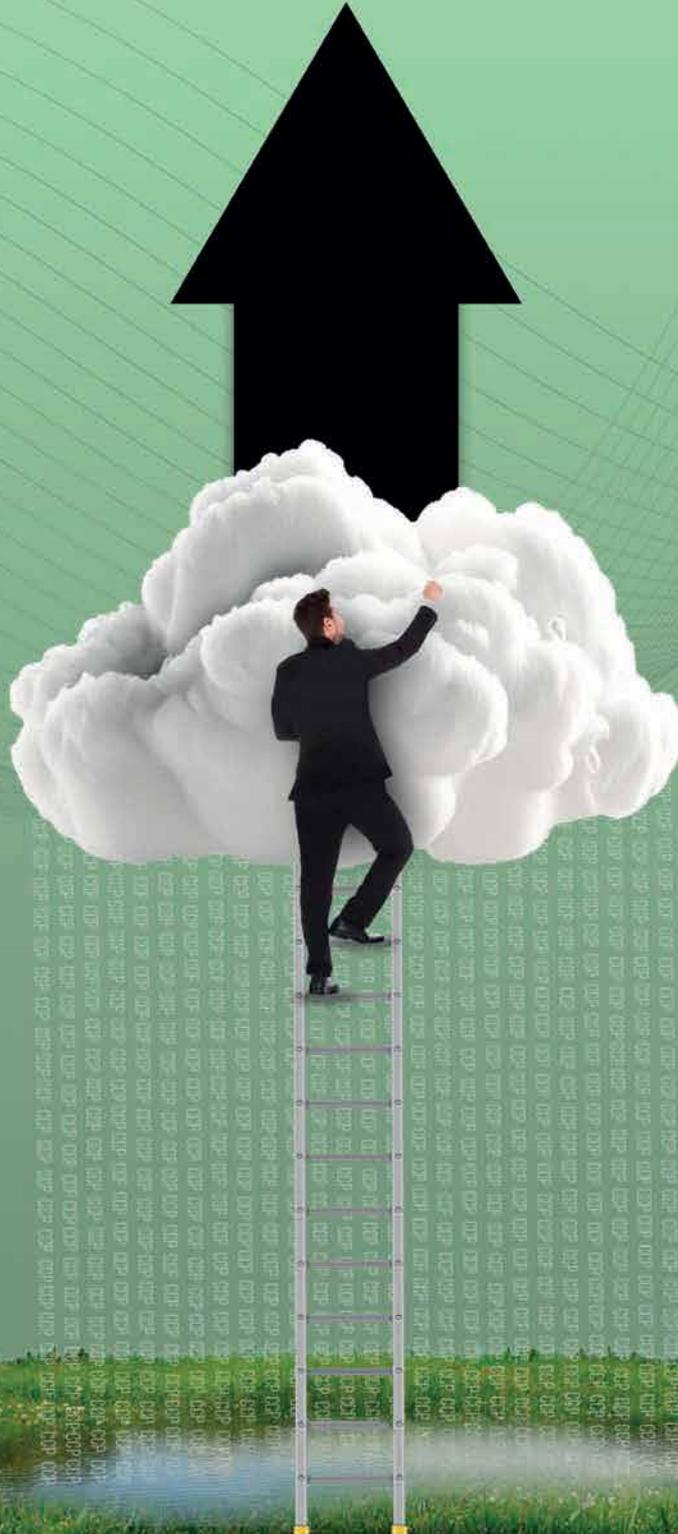


**Competition  
Commission of Pakistan**  
Creating a level playing field

# CC "all other things being equal" ETTERIS PARIBUS

Official Newsletter of the Competition Commission of Pakistan

July - December 2022



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# CCP EARNS GLOBAL RECOGNITION

## with Coveted Three-Star Rating from Global Competition Review

In 2022, the Global Competition Review (GCR), a London-based organization that ranks the world's top antitrust/competition authorities, awarded the Commission a three-star rating, bringing it on par with competition authorities in countries such as Switzerland, South Africa, Belgium, Israel, and Romania. Showing the Commission's performance with an upward arrow, the GCR also noted that its performance indicator was improving upon its previous accomplishments.

The GCR's rating is the result of an independent and objective process that examines information and data provided by the competition authorities, daily reporting by the GCR, and interviews with lawyers and economists on the quality of an agency's work in their jurisdiction. Each authority is rated on a scale of one to five stars.

In the Pakistan country brief in the Rating Enforcement, the GCR noted that the Competition Commission of Pakistan had made significant strides in the past couple of years and had re-established itself as one of the region's primary competition enforcers. The Chairperson, Ms. Rahat Kaunain Hassan, who rejoined in July 2020, credited this achievement to the Commission's team. Ms. Hassan stated that international benchmarking would help the Commission maintain the right focus and improve its performance.

The GCR specifically recognized and appreciated the Commission's performance

in enforcement, noting that, with only 45 non-administrative competition staff and a starting budget of approximately €4 million, the CCP was doing well with its modest resources. The GCR also noted that the CCP's most eye-catching achievement in 2021 was the decision to impose a record fine of about €200.6 million (PKR 44 billion) in August 2021 against sugar mills and the PSMA for "compulsive or pathological" collusion in the sugar sector. The GCR also found that dawn raids (search and inspection) had been an effective tool, as dawn raids in poultry, milk, tractor manufacturing, and other sectors had uncovered evidence of anti-competitive activities.

The GCR also recognized that the Commission had made significant strides on the legal front and in achieving financial autonomy. According to the GCR, a major victory before the Lahore High Court in October 2020, which upheld the Competition Act as constitutionally valid, underpinned the Commission's successes in 2021. Furthermore, the Islamabad and Sindh High Courts strengthened this endorsement in 2021. The GCR further noted that achieving financial autonomy was a significant development in 2021, as the government agreed to hand over 3% of the fees and charges levied by a group of five regulatory bodies after a decade of lobbying by the Commission and coordination and communication with the Ministry of Finance and the Ministry of Law and Justice.

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*In the Pakistan country brief in the Rating Enforcement, the GCR noted that the Competition Commission of Pakistan had made significant strides in the past couple of years and had re-established itself as one of the region's primary competition enforcers*

## 01

# ENFORCEMENT ACTIONS & INITIATIVES

## Section 3 & 4

§ 3 of the Act deals with abuse of dominant position and § 4 prohibits agreements between undertakings and decisions by association of undertakings that can distort competition in a market. The Cartels & Trade Abuse Department investigates potential violations of § 3 & 4 of the Act and recommends relevant actions to the Commission.



### LANDMARK DECISION

## SC Upholds Findings of Poultry Sector Cartelization in Historic Case

In December 2022, the Honourable Supreme Court of Pakistan made a landmark decision by upholding the Commission's Order on price fixing in contravention of Section 4 of the Act in the first-ever cartel case. The Pakistan Poultry Association (PPA) had previously filed a civil appeal against the Competition Appellate Tribunal's judgment and a fine of PKR 100 million. The Supreme Court allowed PPA's appeal and reduced the penalty to PKR 25 million, considering that the advertisements were discontinued after a few days. The Court directed PPA to pay the penalty within 15 days of the Order and the Commission to frame and notify relevant rules relating to the imposition of penalties.

The Commission's Order found that PPA had discussed and approved the advertisement of prices of certain poultry products, which was prohibited under the Act. The Competition

Tribunal's decision upheld the Commission's findings, and PPA appealed the case to the Supreme Court.

The Commission has highlighted collusive/anti-competitive practices in the poultry sector, including show cause notices against 25 poultry association members in 2010, a fine of PKR 50 million on PPA, and resumed show cause proceedings in 2021. Two enquiries in 2021 also concluded possible collusive and anti-competitive practices in various market categories in the poultry sector. The first enquiry report revealed that poultry feed mills collectively fixed the price of poultry feed, and the other enquiry found that hatcheries/poultry companies collectively discussed and decided on prices of day-old broiler chicks, in violation of the Act.

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*Two enquiries in 2021 were also concluded concerning possible collusive and anti-competitive practices in various market categories in the poultry sector including the market for broiler meat, eggs, day old broiler chicks and various poultry feed segments.*

*The first enquiry report revealed that inter alia the poultry feed mills collectively fixed the price of poultry feed and, in the other enquiry, it was concluded that inter alia the hatcheries/poultry companies collectively discussed and decided on prices of day-old broiler chicks, which were in, prima facie, violation of Section 4 of the Act.*

## TO FACILITATE ENHANCED COMPETITION CCP Orders PESCO to Restore Right of Way Access to Nayatel and Cybernet

The Commission received two formal complaints from Cyber Internet Services (Cybernet) and Nayatel against Peshawar Electric Supply Company (PESCO). The complaints alleged that PESCO, by virtue of its dominant position in the market for 'Right of Way (ROW) for aerial cables across electricity poles,' was engaging in dissimilar conditions, price discrimination, and refusal to deal in violation of Section 3 of the Act, which prohibits abuse of dominant position.

The Commission conducted an enquiry and concluded that PESCO was indeed dominant in the market for 'Right of Way (ROW) through electric poles availed by different types of cable service providers in the geographic boundary of Peshawar.' As PESCO solely owned the poles and there were no other substitutes, there was no competition. The Commission found that PESCO charged an enhanced fee of PKR 100 per pole to the Complainants, compared to the basic TV cable operators who were charged only PKR 10 per pole, without any legitimate objective justifications. The Commission found that these terms were discriminatory and in violation of Section 3(3)(b) of the Act. Moreover, PESCO abused its superior bargaining position and imposed further unfair trading conditions in violation of Section 3(3)(a) of the Act on the Complainants. The Complainants were required to provide 10-minute advertisements and free internet connection facilities to all PESCO offices.

The Commission ordered PESCO to restore access to the ROW and provide it to Nayatel and Cybernet on fair, reasonable, and non-discriminatory terms no later than twenty-one (21) days from the date of receipt of the Order. Failing this, PESCO would be liable to pay a fixed penalty of PKR 75 million and an additional penalty of PKR 0.5 million for every day after the first of such violations or the subject abuse had occurred.

The Commission emphasized that access to broadband technology has significant beneficial economic and social impacts and is in line with the objectives of the Government of Pakistan

to promote digital inclusion. The Commission recommended that all private and government stakeholders, including PESCO, create a uniform policy for the deployment of broadband technology and ROW that may address all space/safety issues, including considering any shared infrastructure possibilities to fulfill the overall public policy objectives.

The Commission found further support from the applicable telecommunication regulatory regime, particularly in terms of Section 27A of the Pakistan Telecommunication (Re-organization) Act, 1996, and the 2020 Public and Private Right of Way Policy Directive, which provides that the licensees can use the poles of government and privately owned electricity distribution and supply companies (DISCOs) for aerial installation of optical fibre cables. Moreover, it broadly states that the fee imposed by a public authority for a public right of way shall be on a no-profit, no-loss basis, should not be a means of commercial benefit, and there shall be no discrimination against any licensee in terms of the fee charged.

PESCO's safety grounds were not considered valid by the Commission, as the Enquiry found that incidents had decreased from the year 2017-2018 till the year 2020-2021, and no further evidence was provided to substantiate the contentions. The Commission observed that other DISCOs were already providing ROW at similar rates to fibre optic cable operators, and as such, no denial on safety grounds has been reported or witnessed.

Given the peculiarity of the case, the Commission aimed to ensure compliance and encourage corrective behavior from PESCO. The Commission directed PESCO to restore access to the ROW and provide it to Nayatel and Cybernet on fair, reasonable, and non-discriminatory terms.



*The Commission emphasized that access to broadband technology has significant beneficial economic and social impacts and is in line with the objectives of the Government of Pakistan to promote digital inclusion*



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## INFOGRAPHICS

### In the matter of show cause notice issued to PESCO on complaints filed by Nayatel & Cybernet

#### BACKGROUND

The Complainants alleged that the Respondent is in a dominant position in the relevant product market for 'right of way for aerial cables across electricity poles' and has violated both Sections 3 and 4 of the Act by inter alia;

- ➔ Applying dissimilar conditions, including setting enhanced rent prices for use of its poles on combo/triple service providers, which are different from the charges previously charged from the Complainants and normal TV cable operators, taking it from
- ➔ Implementing price discrimination by charging different prices for the same product, i.e., ROW service from the Complainants as compared to normal cable TV operators as stated above;
- ➔ Constructive refusal to deal by placing onerous conditions on the Complainants in terms of demanding 10 times enhanced rent from that currently being paid and other unfair and discriminatory trading conditions;
- ➔ Imposing restrictive trading conditions and supplementary obligations on the Complainants by requiring the Complainants to provide free internet services to PESCO Offices and free 10-minute advertisements through its new 'renting policy for aerial optical fibre cables ("AOFC") through usage of PESCO electric poles' issued on 24 July 2020 (the "Pole Renting Policy").



#### DATE OF ORDER

13 December 2022



#### BENCH MEMBERS

Ms. Rahat Kunain Hassan  
Mr. Mujtaba Ahmad Lodhi



#### SECTOR/MARKET

Electric Poles & Cables



#### NATURE & SECTION VIOLATION

Abuse of dominance in violation of  
**Section 3** of Competition Act, 2010



#### PARTIES

Complainant:  
1. Cyber Internet Services (Private) Limited ("Cybernet")  
2. Nayatel Private Ltd. ("Nayatel")

Respondent:  
1. Peshawar Electric Supply Company (PESCO)

#### FINDINGS OF ENQUIRY REPORT

Enquiry Report finalised on: 17 March 2022

- ➔ There was no violation of Section 3(3)(d) [supplementary obligations], (e) [dissimilar conditions] and (h) [refusal to deal] as well as Section 4 of the Act as alleged in the Complaint.
- ➔ However, Enquiry Committee found, *prima facie*, violations of Section 3(3)(a), in terms of imposition of unfair trading conditions, and price discrimination in terms of Section 3(3)(b) under the Act.
- ➔ In light of the findings, Enquiry Committee recommended the Commission to consider initiating proceedings against respondent under Section 30 of the Act.

*In consideration of the Enquiry Committee's findings and recommendations, the Commission issued a show cause notice to the Respondent and held hearings in the matter.*

**SCN ISSUANCE DATE:**  
28 April 2022

## ISSUES FRAMED BY THE BENCH

- ➔ Whether the Relevant Market has been correctly defined in the Enquiry Report?
- ➔ Whether PESCO has committed price discrimination in violation of Section 3(3)(b) of the Act by charging different prices for the same service from the Complainants as compared to the price charged from normal TV cable operators?
- ➔ Whether PESCO has imposed unfair trading conditions on the Complainants by unilaterally imposing ancillary conditions i.e., 10 minutes free advertising for PESCO and free internet facility to PESCO on top of charging a rent for use of the relevant service as a result of leverage of enjoying a dominant position in the relevant market, hence, in violation of Section 3(3)(a) of the Act and/or whether such impugned conditions amount to supplementary obligations in violation of Section 3(3)(d) of the Act as against the finding of the Enquiry Committee?
- ➔ Whether PESCO has contravened Section 3(3)(e) of the Act, i.e., applying dissimilar conditions to equivalent transactions, placing the Complainants at a competitive disadvantage as against the finding of the Enquiry Committee?
- ➔ Whether the annulment of the Pole Renting Policy and refusal to provide ROW to all undertakings concerned amounts to refusal to deal in violation of Section 3(3)(h) of the Act? Or is otherwise an abuse of dominant position in terms of Section 3 of the Act.



## FINDINGS OF THE BENCH

- ➔ PESCO was dominant in the market for “Right of Way (ROW) through electric poles availed by different types of cable service providers in the geographic boundary of Peshawar.”
- ➔ It was also found that there were no financially viable or otherwise adequate alternatives for the Complainants to put up their cables in order to provide their respective services to end consumers.
- ➔ Enhanced fee from PKR 10 per pole to PKR 100 per pole for the Complainants as compared to basic TV cable operators without any legitimate objective justifications have been held as discriminatory in contravention of Section 3(3)(b) of the Act.
- ➔ It was found that the PKR 100/pole rent charge coupled with other provisions in the previous Pole Renting Policy issued by PESCO indicated that the discriminatory conduct of the Respondent is solely for the reason of the dominant position it holds rather than for any objective reasons and can be deemed to be exploitative and harmful for undertakings deploying Aerial Optical Fiber Cable (AOFC).
- ➔ PESCO had abused its superior bargaining position and imposed further unfair trading conditions in contravention of Section 3(3)(a) of the Act on the Complainants, i.e., that the Complainants must provide 10-minute advertisements and free internet connection facilities to all PESCO offices.
- ➔ Referring to the Korea Fair Trade Commission guidelines in this regard, it was observed that ‘unfair trade practices’ may also include unfairly coercing customers by forcing an entity to sell services against their will and unfairly taking advantage of one’s superior bargaining position to impair free decision making of a transacting party.
- ➔ The Bench did not find any violation under Section 3(3)(e), i.e., that the Respondent imposed dissimilar conditions to equivalent transaction as it was observed that the scope of Section 3(3)(e) of the Act would apply to competition in the market in which the Complainants and other such undertakings compete.



- ➔ After the annulment of the Pole Renting Policy and refusal to provide ROW, there were no other substitutable means available for the Complainants to provide cable, internet, and telephony services to end consumers, thus, PESCO was found to have abused its dominant position in contravention of Section 3 of the Act.
- ➔ The Bench found that the Respondent is dominant in the relevant market and the ROW is only feasible through its own poles.
- ➔ Restricting or denying access to the ROW without providing any legitimate objective justification may also lead to the foreclosure of future players altogether as such entities may not generate enough revenue to invest or be deterred by the

significant cost associated with setting their own infrastructure along with facing other practical impediments.

- ➔ The conduct of the Respondent was also found discriminatory as admittedly, decommissioning notices related to the removal of cables were only sent to the Complainants. The Respondent had also admitted that no other action has been taken against normal cable TV operators.

### CONCLUSION, REMEDIES & PENALTY



Owing to ensure compliance and to encourage corrective behaviour, the Bench exercise restraint and has directed the Respondent to restore access to the ROW and/or provide the ROW to Nayatel and Cybernet, on fair, reasonable and non-discriminatory terms no later than twenty-one (21) days from the date of receipt of the Order.

Failing which, the Respondent shall be liable to pay a fixed penalty of PKR 75 million and an additional penalty of PKR 0.5 million for every day after the first of such violations or the subject abuse had occurred.



### RECOMMENDATIONS AND DIRECTIONS

The Bench has recommended that all private and government stakeholders, including the Respondent, create a uniform policy for the deployment of broadband technology and ROW that may address any/all space/safety issues, including considering any shared infrastructure possibilities to fulfill the overall public policy objectives.

### NEWS COVERAGE



## FALSE COVID-RELATED MARKETING CLAIMS

# Paint Company Penalized for Deceptive Advertising

Nippon Paints Pakistan filed a complaint that Nelson Paint was spreading false and misleading information through social media about their products. The complaint accused Nelson Paint of making two major claims about COVID-19 protection with their products, namely “Nelson Extra Stainless” and “Nelson Extra Klick Special Matt Enamel,” which allegedly violate Section 10 of the Act. The complainant alleged that Nelson Paint was taking advantage of the health concerns related to the pandemic to increase its sales through false advertising.

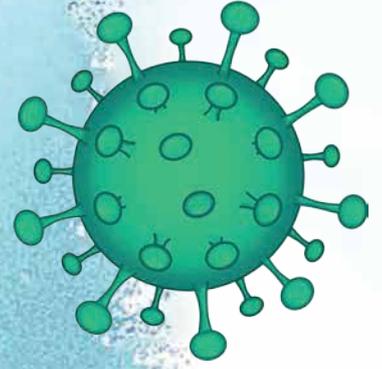
During the inquiry, Nelson Paint argued that they manufacture anti-bacterial paint containing Benzalkonium Chloride (BKC), which protects against microbes and bacteria, and that the Pakistan Council of Scientific & Industrial Research Laboratories Complex (PCSIIR) duly checks the products. They further claimed that their product had an anti-bacterial efficiency of 99.9% and that all necessary tests were performed after developing the products.

After reviewing the findings of the inquiry and hearing the arguments from all parties involved, the Bench concluded in their order that the BKC substance only works against bacteria and microbes and not against viruses, including COVID-19. Additionally, the relied-upon documents did not adequately mention the effective role of BKC in paint products, and

thus did not substantiate the alleged claim of protection against COVID-19.

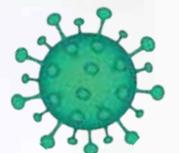
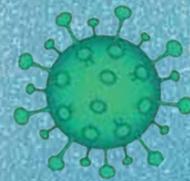
The Commission noted that health and safety claims are scrutinized thoroughly and that the undertakings making such claims must provide competent and reliable scientific evidence to substantiate their claims. Furthermore, the marketing practices of Nelson Paint, when viewed holistically, caused harm to consumers and other businesses, thereby violating Section 10(2)(b) and Section 10(2)(a) of the Act.

The Commission issued an order penalizing Nelson Paint Industries with a token fine of PKR one million for violating Section 10 of the Act. The Bench also directed Nelson Paint to withdraw any batches of the products that may have been sold or are still available in stock with their distributors and to inform their distributors or buyers of the inefficacy of the subject claims. Nelson Paint received a strong reprimand to refrain from using deceptive marketing practices in the future.



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*Nelson Paint was using deceptive claims in their marketing material that their product provided protection against COVID-19.*





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## INFOGRAPHICS

In the Matter of Show Cause Notices issued to  
**Nelson Paint Industries**



## BACKGROUND ISSUE AND COMPLAINT



- Nippon Paints Pakistan (Private) Limited sent a formal complaint to the Commission that Nelson Paint was distributing false and misleading information to consumers through social media about their products.
- The complainant cited two major claims that were allegedly violating Section 10 of the Act, i.e. "Nelson Extra Stainless (COVID-19 Protection)" and "Nelson Extra Klick Special Matt Enamel (COVID-19 Protection)."
- It was alleged that Nelson Paint have taken undue advantage of the prevalent health concerns at the time of the COVID-19 pandemic and attempted to increase its sales through false slogans.



### DATE OF ORDER

1 December 2022



### BENCH MEMBERS

Rahat Kaunain Hassan  
(Chairperson)  
Mujtaba Ahmad Lodhi  
(Member)

## FINDINGS OF ENQUIRY REPORT



- During the enquiry, Nelson Paint contended that it manufactured the impugned anti-bacterial paint, which contains a substance called Benzalkonium Chloride (BKC) that provides protection against microbes and bacteria and the Products are duly checked by the Pakistan Council of Scientific & Industrial Research Laboratories Complex (PCSIR).
- It further claimed that the anti-bacterial efficiency of its product was 99.9% and it has performed all necessary tests after the development of the products.



### SECTOR/MARKET

Paint Manufacturers



### NATURE AND SECTION VIOLATION

Deceptive Marketing Practices in violation of Section 10 of the Competition Act, 2010



### COMPLAINANT

Nippon Paints Pakistan

### Conclusions of the Enquiry Committee

- The Nelson Paint could not back its claims through any independent third party lab test reports.
- Nelson Paint is likely to be involved in the distribution of false and misleading information to consumers, including the distribution of information lacking reasonable basis related to price, characteristics, properties in, prima facie, violation of Section 10(1) and 10(2)(b) of the Act.
- Besides, the behaviour of the Nelson Paint is also capable of harming the business interest of other Undertakings, which prima facie amounts to violation of Section 10(1) and 10(2)(a) of the Act.
- Taking into account the Enquiry Committee's findings and recommendations, the Commission issued show cause notices to the Respondents and held hearings in the matter.



## ISSUES FRAMED BY THE BENCH

- Whether the undertakings have fulfilled all direction given under Paragraph 48 of the Paint Order?
- Whether the undertakings are liable for penal action under Section 38 of the Competition Act, 2010 for non-compliance of the Paint Order?



## REMEDIES & PENALTY

- The Bench took into consideration the commitments made by Nelson Paint that it has discontinued the impugned deceptive marketing practices and shall not repeat any such activity in the future. However, the Bench also observed that in the past, the Commission has issued many Orders against various paint manufacturers for deceptive marketing practices and the law is now clear on the matter. Hence, at this stage, there will be a greater onus on paint manufacturers to ensure compliance with the provisions of the Act.
- In light of the above and to promote a more compliance oriented approach, the Bench imposed only a fixed token penalty of PKR one (01) million to deter companies from engaging in deceptive marketing practices, importantly, where it relates to health or safety claims.



## FINDINGS OF THE BENCH

- The Bench held in its order that Benzalkonium Chloride (BKC) substance is only effective against bacteria and microbes, but not against viruses, particularly against COVID-19. The reports were also inadequate as the testing was selective against only three types of bacteria.
- The documents relied upon also did not adequately mention the effective role of BKC in paint products, hence, it did not substantiate the alleged claim, i.e., protection from COVID-19.
- The Commission held that claims particularly relating to health and safety are dealt with strictly and undertakings making the same are under a higher duty of care. Such claims need to be substantiated using competent and reliable scientific evidence that is sufficient in quality and based on standards accepted generally by experts in the relevant area.
- Referring to the Commission's Stepsil Order (dated 9 February 2021), the Bench also reiterated that Section 10(2)(a) and (b) can also be construed as independent of each other.
- The Bench held that the marketing practices of Nelson Paint, when taken holistically, are to the prejudice and injury, not only of the consumers but also to other businesses, hence, in violation of Section 10(2) (b) along with Section 10(2) (a) of the Act.



## CONCLUSION & DIRECTIONS

- The Bench directed Nelson Paint to withdraw any or all batches of the products that may have been sold or are still available in stock with their distributors and to inform its distributors or buyers regarding the inefficacy of the subject claims.
- Nelson Paint was strongly reprimanded to avoid deceptive marketing practices in the future.
- A report confirming compliance with directions above shall be submitted within 30 days of the issuance of this order.

## MEDIA COVERAGE



## Section 10

§ 10 of the Act addresses deceptive marketing practices. The Commission's Office of Fair Trade investigates potential violations of the § 10 of the Act. In several orders, companies were asked to avoid advertising deceptive claims about their products.

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*The Commission deems it relevant to clarify that the Bench is not concerned with whether its trademark logo has been registered or not but is rather concerned with the representation of its logo by the Respondent while advertising the product being deceptive in any manner. It is needless to mention here that even if an undertaking has a registered trademark logo under the relevant laws, it would not absolve any party from complying with the relevant provisions of Section 10 of the Competition Act.*

## UPHOLDING ETHICAL ADVERTISING STANDARDS

# Paint Manufacturers Refrain from Using Deceptive Logo

Diamond Paint Industries filed a complaint against Berger Paint, alleging that the claim of Berger Super Emulsion being the “No.1 Emulsion in Pakistan” was unsubstantial and unquantifiable. Following an enquiry, the Commission found that the conduct of Berger Paint was in violation of Section 10 (1) and, in particular, Section 10 (2) (a) of the Act, as the representation of “Berger No.1 Super Emulsion” on the paint bucket, shade card, and brochure of its emulsion paint was capable of harming the business interests of the complainant and other undertakings. The Commission also found that the representation was disseminating misleading information to consumers without a reasonable basis related to the character, properties, and quality of its product, violating Section 10 (1) in general and, in particular, Section 10 (2) (b) of the Act.

The Commission's Order held that Berger Paint did not present any independent study or research to support the claim of being the “No.1 Emulsion.” The term “No.1” was used as part of the product name and trademark logo, which

played a central role in building up the perception of ordinary consumers. The conduct had the potential to mislead consumers and harm the position and ranking of other players by giving an unearned competitive edge to Berger Paints. The Commission, therefore, held Berger Paint to violate of Section 10 of the Act.

Berger Paints complied with the commitment filed under Regulation 30 of the Competition (General Enforcement) Regulations 2007 (GER) and ceased to advertise the impugned logo, removing it from all print and electronic media. As a result, the Commission decided not to impose any penalty on the respondent.



## INFOGRAPHICS

In the Matter of Show Cause Notices issued to **Berger Paints Pakistan** on complaint filed by **Diamond Paint industries**



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## BACKGROUND ISSUE AND COMPLAINT



- Diamond Paint in its formal complaint against Berger Paints alleged that it had engaged in deceptive marketing practices by making false and misleading claim regarding its product i.e. Berger Super Emulsion as 'No.1 Emulsion in Pakistan', without any supporting independent research or report.
- The complaint further alleged that the false/misleading claim has the potential to mislead the ordinary consumer and also likely to cause harm to the Respondent's competitors which is prima facie in violation of Section 10(2)(a), (b) and (c) of the Act.

## FINDINGS OF ENQUIRY REPORT



- The conduct of the Berger Paints is, through claim of 'Berger No.1 Super Emulsion' on the paint bucket and shade card/brochure of its emulsion paint, capable of harming the business interest of the complainant and other undertakings, prima facie, in violation of Section 10(2)(a) of the Act.
- It is also concluded that the Berger Paints is found to be disseminating misleading information to consumers lacking a reasonable basis related to the character, properties and quality of its product, prima facie, a violation of Section 10(2)(b) of the Act.
- Taking into consideration the Enquiry Committee's findings and recommendations, the Commission issued show cause notices to the respondents and held hearings in the matter.

## APPLICATION UNDER REGULATION 30



- During the hearing, Berger Paints also filed an application under Regulation 30 of the Competition (General Enforcement) Regulations (GER) 2007 and submitted that it wishes to avail the remedy as provided under Regulation 30.

## ISSUES FRAME BY THE BENCH



- Whether the Respondent has resorted to deceptive marketing practices by distributing false and misleading information in violation of Section 10 (1) read with Section 10(2)(a) & (b) of the Act?



### DATE OF ORDER

1 December 2022



### BENCH MEMBERS

Rahat Kaunain Hassan  
(Chairperson)  
Mujtaba Ahmad Lodhi  
(Member)



### SECTOR/MARKET

Paint Manufacturers



### NATURE AND SECTION VIOLATION

Deceptive Marketing Practices in violation of Section 10 of the Competition Act, 2010



### COMPLAINANT

Nippon Paints Pakistan

## FINDINGS OF THE BENCH



- The impugned claim and logo 'Burger No.1 Super Emulsion' is capable of misleading the ordinary consumer that Respondent's emulsion is No.1 in the emulsion paint market or that the product is better in ranking as a whole from the other competitors in the market.
- No independent study or research to support the nexus for claiming it to be 'No.1' has been placed on record by the Respondent.
- The Bench clarified that the Commission is not solely concerned with the status of registration of the trademark logo but whether the representation of the Respondent's logo while advertising its product is deceptive in any manner. Even if the undertaking had a registered trademark, it would still not absolve any party from complying with the provisions of Section 10 of the Act.
- The misleading information, in turn, was found to be certainly capable of harming the business interests of other undertakings and distribution of the same constituted a violation of Section 10(2) (a) & (b) of the Act by the Respondent.

## COMMITMENT & COMPLIANCE

- The Respondent had shown compliance through the commitments filed under Regulation 30 of GER 2007 and had ceased to advertise the impugned logo and also removed it from all print and electronic media as per the documents submitted by the Respondent.
- The Bench was satisfied with the compliance of Regulation 30 of GER 2007 and accepted the commitments filed by the Respondent.



## DIRECTIONS

## REMEDIES & PENALTY

- The Bench had decided not to impose any penalty on the Respondent due to the commitments submitted by the Respondent and the compliance oriented approach shown by the Respondent.

- The Bench observed that any alleged practice of a similar nature, i.e., using the term 'No.1', by any of the players in the relevant market, in a form or manner which is misleading or deceptive, needs to be stopped and/or rectified forthwith by all undertakings concerned.
- To avoid any contravention of Section 10 of the Act, any specific and quantifiable claim, similar to the subject matter, ought to be substantiated by some independent and/or recognizable source.
- The Commission, through its relevant department, may initiate a report in this regard, with respect to the relevant market and segment concerned, flagging similar violation(s), for the Commission to proceed in accordance with law.





## FACILITATING BUSINESS SYNERGY

# CCP Grants Phase-II Approval to JV Agreement between Tariq Glass and ICI Pakistan

## SECTION 11

§ 11 of the Act addresses Approval of Mergers. No undertaking shall enter into a merger which substantially lessens competition by creating or strengthening a dominant position in the relevant market.

The Commission approved the Joint Venture between Tariq Glass Industries Limited (TGL) and ICI Pakistan Limited under Section 11 (6) of the Act. In the Phase I Order, the Commission observed that the proposed transaction is likely to, directly and indirectly, strengthen the JV Partners' dominance in the Relevant Market and the related Soda Ash market. Thus, a more detailed assessment was required. Accordingly, a Phase II Review was initiated under Section 11 (6) of the Act.

The Commission observed that ICI is in a dominant position in the upstream market, therefore, the subject transaction may put it in a position where it can set preferential prices or terms for its business dealings with TGL and the JVCO. As a supplier of soda ash, ICI may also impose exclusionary terms of sale where the float glass manufacturers may be foreclosed from purchasing soda ash from other sources. Moreover, coordinated effects can be present horizontally in the downstream float glass market between TGL and the JVCO where both parties can agree on territorial restrictions related to the sale of float glass, fixing or setting the quantity of production, limiting technical development and investment.

### After hearing the JV Partners and analysing the facts on the record, the Commission's Bench made following assessments:

- > *Considering the wide and fragmented customer base of soda ash, it seems less likely that any exclusionary/customer foreclosure would take place.*
- > *Only a small portion of soda ash sales are made to float glass manufacturers and, the overall revenue generated from soda ash sales (to all industry players) is a significant chunk of ICI's turnover, it also may not seem plausible that ICI would be incentivized to enter into any downstream exclusive arrangements.*
- > *As intimated to the Commission, the float glass manufacturers can obtain soda ash from other sources other than ICI on competitive pricing conditions.*
- > *The JV Partners have given undertaken before the Bench that the proposed JVCO will operate as an independent entity and no exclusionary/exclusive practices shall be undertaken between the concerned undertakings.*

### The Commission passed the Order with following conditions:

- > *The undertakings concerned (JV Partner 1/TGL, JV Partner 2/ICI, JVCO) shall not impose any exclusive/restrictive conditions*
- > *Horizontally, the JV Partner 1/TGL shall not impose any conditions on the JVCO concerning the production, supply or distribution of their respective products, which may impede competition, i.e., inter alia, setting prices of products, setting territorial boundaries, client quotas, placing caps, limits on production capacity, quantities and limiting technical development.*
- > *The concerned undertakings shall not apply any dissimilar conditions, such as preferential treatment, on the same types of transactions.*
- > *Considering the vertical market structure, JV Partner 2/ICI shall not impose any input and customer foreclosure conditions, i.e., where JV Partner 2/ICI refuses to supply soda ash to rival undertakings in the downstream market and where it restricts JVCO and JV Partner 2/TGL from acquiring soda ash from ICI's rival undertakings.*



Competition Commission of Pakistan

www.cc.gov.pk

INFOGRAPHICS

In the Matter of Joint Venture Between M/s. Tariq Glass Industries Limited and M/s. ICI Pakistan Limited



BACKGROUND

PHASE 1

Joint Venture

PHASE 2

Joint Venture

- ➔ Tariq Glass and ICI Pakistan entered into a Joint Venture Agreement (“JVA”) to create a new JV company, which would operate a float glass manufacturing facility.
- ➔ The relevant product market was identified as the “Float Glass” market while the relevant geographic market was Pakistan. The reportable market was “Soda Ash”, being a raw material used in the production of float glass.



DATE OF ORDER

07 July 2022



BENCH MEMBERS

Ms. Rahat Kunain Hassan  
Mr. Mujtaba Ahmad Lodhi



SECTOR/MARKET

Float Glass Manufacturer



NATURE & SECTION VIOLATION

Joint Venture (JV) under Section 11 (6) of the Act



PARTIES

**Joint Venture Partner 1:**  
1. M/s. Tariq Glass Industries Limited (TGL)

**Joint Venture Partner 2:**  
1. M/s. ICI Pakistan Limited



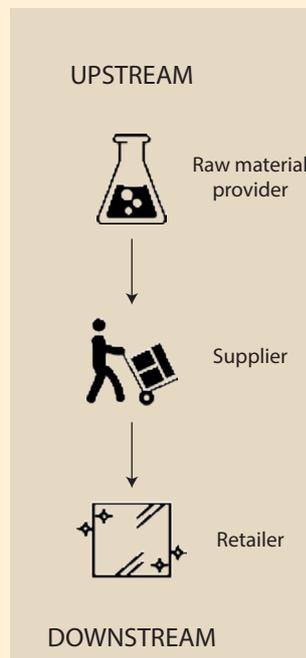
PHASE 1 ORDER

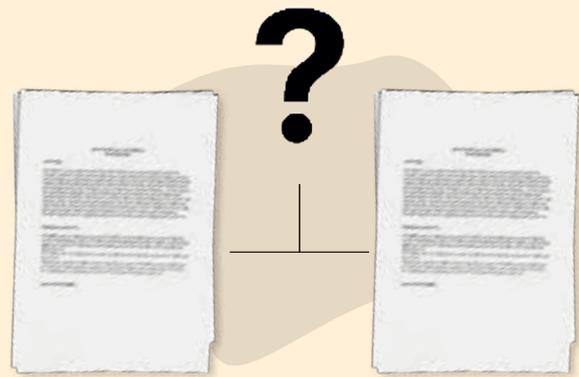
- ➔ It was found that there already was a vertical relationship between the JV Partners as ICI Pakistan provides Soda Ash to TGL for the production of float glass and both undertakings were dominant in their respective markets. Both markets were also considered to be oligopolies with two main players in each.
- ➔ The Commission, in its Phase I Order, found that the transaction is, therefore, likely to directly and indirectly strength the JV Partners’ dominance in the Relevant Market and the related Soda Ash Market (in which ICI Pakistan operates). Accordingly, a Phase II Review was initiated under Section 11 (6) of the Act.

THEORY OF HARM

*In light of the facts on record (also identified in the Phase I Order), the following were highlighted as plausible theories of harm:*

- ➔ **ICI is in a dominant position in the upstream market**, hence, the subject transaction may put it in a position where it can set preferential prices/terms for its business dealings with TGL and/or the JVCO.
- ➔ As a supplier of soda ash, **ICI may also impose exclusionary terms of sale** where the float glass manufacturers may be foreclosed from purchasing soda ash from other sources.
- ➔ Coordinated effects can be present horizontally in the **downstream float glass market** between TGL and the JVCO where both parties can agree on customer/territorial **restrictions related to the sale of float glass, fixing or setting the quantity of production, limiting technical development and/or investment.**





## COMPETITION ASSESSMENT

After hearing the JV Partners and analysing all material on record, the Bench made the following assessments:

- ➔ It was deemed unlikely that ICI would take part in any anti-competitive conduct as its sales of soda ash to float glass manufacturers comparatively accounted for only a small portion of its total turnover. Moreover, ICI had a wide and fragmented customer base for soda ash, which sales were not limited to the local glass manufacturers.
- ➔ Since the total revenue generated from soda ash sales to all concerned industry players was a significant chunk of ICI's turnover, there was less incentive for ICI to enter into any downstream exclusive arrangements.
- ➔ The float glass manufacturers could obtain soda ash from other sources other than ICI on competitive pricing conditions.
- ➔ Demand for float glass was also projected to significantly increase by 2025, increasing production and allowing the industry to grow.
- ➔ The float glass customer base is also heavily fragmented given the multiple uses of float glass across numerous industries, in particular, construction and real estate.
- ➔ A new entrant in the market will be formed, hence, bringing in a possible new competitor as well as increased capacity for local production and sales.
- ➔ The JV Partners also undertook before the Bench that the proposed JVCO will operate as an independent entity and no exclusionary/exclusive practices shall be undertaken between the concerned undertakings.
- ➔ Moreover, the JV Partners had also stated that currently, there are no exclusive vertical arrangements between ICI and TGL and the same shall be the case for the JVCO.
- ➔ The JV Partners are also public listed companies, hence, in general, bound by greater ethical and legal standards, particularly, conducting transaction on an arms-length basis and disclosing related party transactions.



TO DOWNLOAD  
THE ORDER

## CONCLUSION

The Commission found that although the prevalent market conditions and facts on record lessen the probability of the concerned undertakings lessening/impeding competition in the relevant market, there remained a possibility where the JV Partners may abuse their positions in the relevant and reportable markets. Hence, the Order was subject to the following conditions:

## CONDITIONS

The Order is subject to the following conditions:

- ➔ The undertakings concerned (JV Partner 1/TGL, JV Partner 2/ICI, JVCO) shall not impose any exclusive/restrictive conditions and/or enter into any agreements amongst each other and/or with rival undertakings that may be anti-competitive in nature.
- ➔ Horizontally, the JV Partner 1/TGL shall not impose any conditions on the JVCO in relation to the production, supply and/or distribution of their respective products, which may impede competition, i.e., inter alia, setting prices of products, setting territorial boundaries and/or client quotas, placing caps/limits on production capacity/quantities and/or limiting technical development.
- ➔ The concerned undertakings shall not apply any dissimilar conditions, such as preferential treatment, on the same types of transactions.
- ➔ Considering the vertical market structure, JV Partner 2/ICI shall not impose any input and customer foreclosure conditions, i.e., where JV Partner 2/ICI refuses to supply soda ash to rival undertakings in the downstream market and where it restricts JVCO and JV Partner 2/TGL from acquiring soda ash from ICI's rival undertakings.

## 02

ENQUIRY  
REPORTSPROTECTING CONSUMERS FROM PREDATORY  
LENDING PRACTICESCCP Proceeds Against  
Loan Apps on Google Play

The Commission took notice of emerging concerns regarding mobile applications on Google Playstore that offer nano/micro personal loans to vulnerable customers, mostly belonging to the lower to middle-income class. After a news report in a leading newspaper, a preliminary probe was conducted, revealing that these mobile applications offer nano-loans without fulfilling legal requirements for Non-Banking Micro Finance Companies (NBMFC's) law. The NBMFC law regulates nano-loans only above PKR 10,000, while most of these applications offer loans smaller than this. Initial findings showed that these applications have over 10 million downloads by the general public.

The preliminary findings revealed that these mobile applications had discrepancies between the interest rates/processing fees charged to the borrower versus the rates advertised. There are also instances of faulty claims of data privacy and security, collecting personal data on the pretext of offering loans, and the discrepancy in repayments and credit range advertised vis a vis those offered.

In September 2022, the Commission formally initiated an inquiry and authorized the enquiry committee to thoroughly investigate and

submit a report to the Commission concerning any or all possible contraventions under the Act against all nano-loan mobile applications. The enquiry committee has been consulting with all concerned stakeholders and seeking relevant information to deliberate the matter objectively. Meetings were also held with the Securities & Exchange Commission of Pakistan, the Pakistan Telecommunication Authority, and the Federal Investigation Agency.

The Commission's focus in this investigation is to ensure due disclosures and truth in marketing, so that vulnerable consumers can make informed decisions. However, locating the owners of these applications has been an impediment as most of the applications operate from hoax addresses and contact details. Individuals or entities with information on these nano-loan mobile applications are encouraged to share their information at: [oft@cc.gov.pk](mailto:oft@cc.gov.pk). The findings of the enquiry will be placed before the Commission for its decision and further action.



## CCP Investigation Uncovers Deceptive Marketing Practices by Online Education Provider

The Commission conducted an enquiry against British Lyceum, an online educational institute associated with American Lyceum and Royal Lyceum and found it in violation of Section 10 of the Act. The enquiry was initiated in response to claims made by British Lyceum in its newspaper advertisements and website postings, suspected to be false and misleading.

The enquiry identified three major claims made by British Lyceum, i.e promising teachers a salary of Rs. 80,000 to Rs. 250,000 per month, endorsing a program worth Rs. 3.75 billion with Cambridge Global and having renowned educationists and technologists on their Board of Directors. The Enquiry found that these claims were not substantiated by evidence and were misleading.

The enquiry specifically found that the disclaimer in the advertisement was not noticeable enough and the terms and conditions were not readily available on the website, making it difficult for potential consumers to make an informed decision. The claim of collaboration with Cambridge Global was found to be false and misleading, as Cambridge Global was a dormant company in the UK. The enquiry also found the claim of having eminent educationists and technologists on the Board of Directors to be false and misleading. The enquiry noted that British Lyceum used marketing tactics to make profits through deceptive, false, and misleading claims, particularly during the pandemic when schools were frequently closed and teaching staff were being laid off.

As a result of its findings, a Show Cause Notice was issued to British Lyceum for violating Section 10 of the Act.

## Colgate-Palmolive Files Complaint Against Proctor & Gamble for Alleged Misconduct

Colgate Palmolive Pakistan filed a complaint against Proctor and Gamble (P&G), alleging that the advertising of their product, Safeguard Liquid Hand Soap (Safeguard LHS), created an impression that ordinary soap was inadequate for germ protection. The Commission conducted an enquiry into the matter and found that P&G used the term 'double dum power' to distinguish Safeguard LHS from ordinary soap in its advertisements.

The enquiry analyzed the advertisement and found that the claim of 'double dum power' was based on two types of protection - germ removal and germ inhibition - due to the addition of the anti-bacterial ingredient 'Piroctone Olamine', which provides long-lasting protection by inhibiting germ regrowth. P&G also submitted a study conducted by Michigan State University that found that antimicrobial soap was more effective in reducing exposure to E.coli and the risk of infection compared to non-antimicrobial soap.

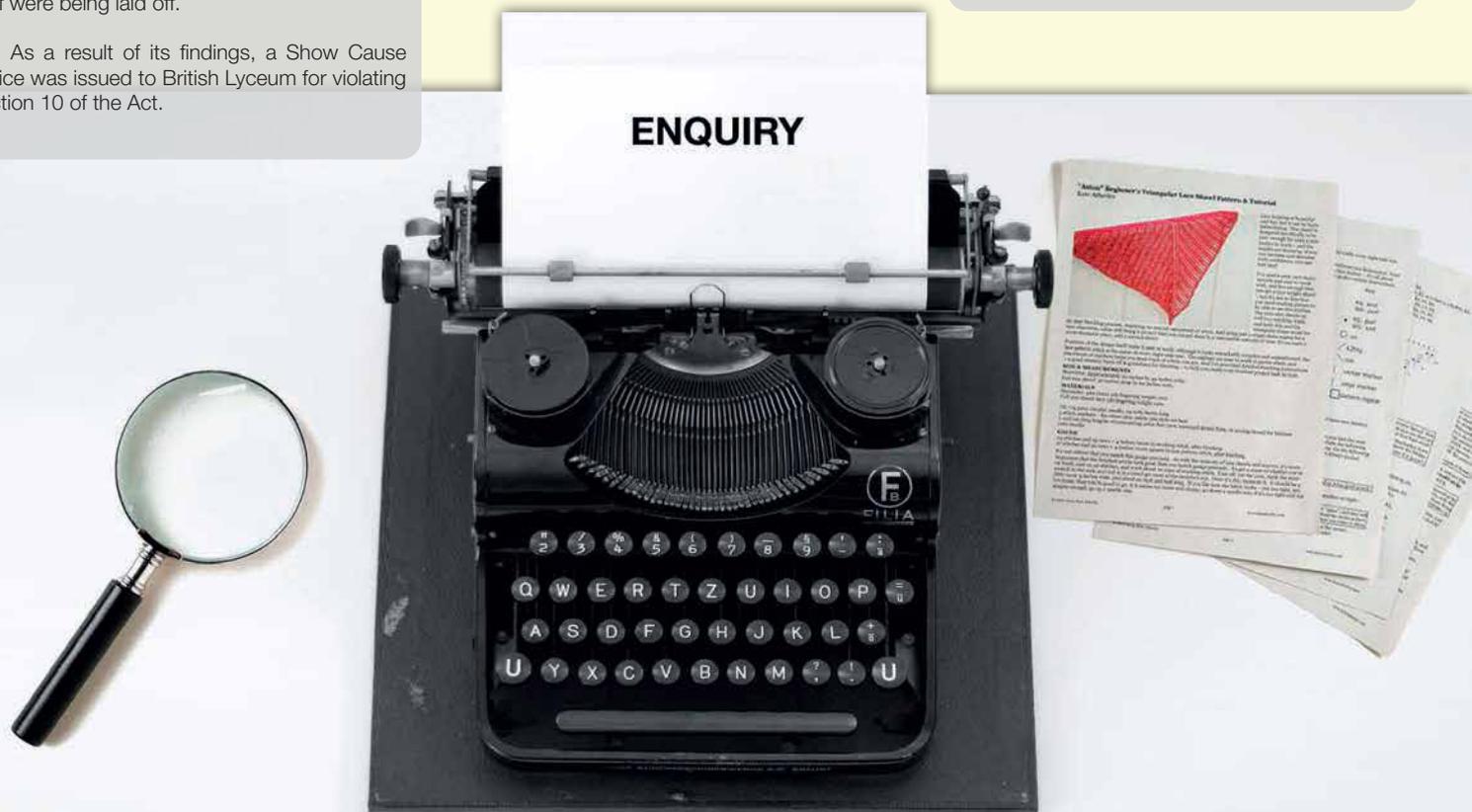
Therefore, the enquiry report established that P&G reasonably substantiated their claim of 'double dum power', and the advertised claim was adequately substantiated. Although the TVC gave the impression that Safeguard LHS offered superior germ protection compared to ordinary soap, P&G had a reasonable basis for this claim. The complaint against P&G was dismissed.

## Asia Insurance Files Complaint Against ZTBL for Alleged Violation of Act

The Commission received a complaint from Asia Insurance Company (AICL) against Zarai Tarqati Bank (ZTBL), alleging that ZTBL had impeded competition in the market for crop insurance services by raising the rating criterion for participation in a tender. The enquiry initiated by the Commission analyzed the agricultural loans offered to farmers in Pakistan and found that several public and private financial institutions provided such loans under the State Bank of Pakistan's policies and regulations. In this context, ZTBL did not appear to be dominant in the relevant market, making it difficult to find a violation of Section 3 of the Act.

The enquiry report further found that ZTBL engaged in an economic activity similar to its competitors and did not operate as an association or umbrella organization for any undertakings. As such, any decision taken by ZTBL did not seem to amount to a decision taken by an association, making it unlikely that there was a violation of Section 4 of the Act.

Moreover, the increase in the rating criterion from 'A' to 'AA' was not the result of an explicit agreement among ZTBL or any other undertaking, nor was there any evidence to suggest otherwise. Therefore, the Enquiry Report concluded that the necessary conditions for a prima facie violation under Section 3 and 4 of the Act were not fulfilled and recommended that the Enquiry be closed.



## 03

# SEARCH & INSPECTIONS

## Section 34

§ 34 of the Act addresses power to enter and search premises. Notwithstanding anything contained in any other law for the time being in force, the Commission, for reasonable grounds to be recorded in writing shall have the power to authorize any officer to enter and search any premises for the purpose of enforcing any provision of this Act.

### POSSIBLE VIOLATIONS OF COMPETITION LAW

## CCP Conducts Search and Inspection of Float Glass Manufacturers

As part of an ongoing enquiry to investigate potential violations of Sections 3 (Abuse of Dominance) and 4 (Prohibited Agreement) of the Competition Act, 2010 in the glass industry, the Commission's authorized teams of officers entered and searched the premises of two undertakings suspected of engaging in anti-competitive practices. The enquiry was launched in response to concerns that the undertakings were collectively deciding the pricing of float glass and the utilization of their production capacities.

CCP's analysis of data from 2019 to 2021 revealed that the prices of both companies for float glass of varying thicknesses were similar, and the timing and quantum of price increases were also the same. Market sources also reported that the two companies were suspiciously coordinating their prices and production quantities. Such coordination or agreement between competing undertakings to fix prices and supply in the market is prohibited under Section 4 of the Competition Act, 2010.

Using its powers under Section 34 of the Act, CCP authorizes teams of officers that entered and searched the premises, as cartels are secretive in nature. Hence, two teams of authorized CCP officers simultaneously entered and searched the premises of the respective undertakings and seized relevant records. The two companies cooperated with the search teams and handed over documents and computer-stored information related to the possible role of the respective undertakings in the alleged anti-competitive activities. Therefore, there was no need for forceful entry under Section 35 of the Act.



## 04

RESEARCH  
STUDY

## Section 28(b)

*To conduct studies for promoting competition in all sectors of commercial economic activity*



## VALUE CHAIN OF 10 ESSENTIAL COMMODITIES

## CCP Study Recommends Measures to Promote Efficiency and Address Market Distortions

The Commission completed a draft study aimed at addressing market distortions and promoting efficiency and competition in the value chain of ten essential food commodities in Pakistan, including **onion, edible oil and ghee, potato, poultry, wheat, sugar, milk, rice, tomato, and pulses**. These commodities constitute 63% of an average household's monthly expenditure on food items, and the study was commissioned by the National Price Monitoring Committee (NPMC) in response to double-digit inflation in Pakistan since November 2021.

The Commission shortlisted ten major food items from the list of 51 essential commodities in the SPI for the study and held consultative sessions with stakeholders from the agriculture and food ministries, research institutes, and other related departments from Punjab, Sindh, and Khyber Pakhtunkhwa. After taking stakeholders' input, the study will be finalized with consolidated recommendations to the Government of Pakistan to address market distortions and ensure efficiency in the value chain of these commodities.

The study identifies underlying causes of the price hikes and supply chain issues, including inappropriate policies and regulations that distort the markets, inhibit competition, and discourage private investment, as well as the lack of efforts to promote research, innovation, and technology utilization to enhance crop yield and productivity.

In its recommendations, the study urges a shift of the government policy focus from the current major crops of sugar and wheat to equally significant other crops having export potentials, such as pulses, other cereals, oil seeds, and vegetables. To address the issue of inefficiency owing to low yield, it

recommends taking R&D initiatives in the high-yield varieties with interventions by the Federal Seed Certification and Registration Department, provincial Agriculture Extension Departments, and Seed Development Departments to develop mechanisms for the dissemination of high yield seed varieties, R&D on high yield crops, and creating awareness about high-yield seeds and genetically improved crops and their cultivation.

The study recommends a complete overhaul and increase in the number of the currently 345 Agriculture Produce Markets (APM) in Pakistan, including both public and private (grain and fruit & vegetables). The study notes that protectionism through export/import ban and tariffs act as barriers to entry for traders to reach international markets, and it recommends the farmers' increased access to finance for all types of crops and production areas. With high mobile penetration with 88% of the population having access to internet/broadband, agriculture e-commerce has significant potential, and therefore, it recommends the government to develop an agri e-commerce ecosystem and educate farmers on the agri e-commerce opportunities.

The study recommends that the government promotes contract farming, which will lead to economies of scale and farm mechanization, strengthen the farmers-processor relationship, improve access to finance for both the processors and the farmers, and be equally favourable for banks/DFIs by reducing the cost of doing business and post-disbursement monitoring. While emphasizing the importance of storage for food security, the study recommends the government to make adequate arrangements for the storage of wheat, rice, seeds of pulses, and oilseed crops. To avert the crisis of food security and food price volatility amid the flood situation

in Pakistan, Strategic Grain Reserves (SGRs) can be a useful policy tool where target disbursement is made to needy people.

## ESSENTIAL COMMODITIES



Onion



Edible Oil and Ghee



Potato



Poultry



Sugar



Milk



Rice



Tomato



Pulses

## DRAFT REPORT ON

### “Review of Essential Commodities to Identify and Address Market Distortions” in Pakistan

## CCP ENGAGES WITH STAKEHOLDERS TO GATHER VALUABLE INSIGHTS

The Commission conducted a series of consultative sessions with stakeholders in Lahore, Karachi, Peshawar, and Quetta as part of the process to complete the draft study on the “Review of Essential Commodities to Identify and Address Market Distortions.”

The CCP team, led by the Chairperson Ms. Rahat Kaunain Hassan and consisting of Member Mujtaba Ahmed Lodhi, and other senior officers, met with representatives from various government departments, including agriculture and food ministries, research institutes, and other related organizations from Punjab, Sindh, Khyber Pakhtunkhwa, and Balochistan.

During these sessions, the participants discussed ways to promote healthy competition and efficiency in the supply chain of essential food commodities. In her address, the Chairperson emphasized the CCP’s commitment to identifying and addressing market distortions that hinder fair competition and create barriers to entry for new market players.

The consultative process is an essential part of the CCP’s approach to ensure that all stakeholders have a voice in the policy-making process. Through these sessions, the CCP aims to gather valuable insights and feedback from various industry players to develop an informed and well-rounded study on essential commodities.

The CCP’s efforts to promote fair competition and efficiency in the supply chain of essential food commodities will benefit consumers by ensuring that they have access to quality products at reasonable prices. This study will also help policymakers to identify and address any market distortions that may be affecting the industry, ultimately leading to a more robust and sustainable market for essential commodities.



Session held at Lahore on: 6 Oct 2022



Session held at Karachi on: 13 Oct 2022



Session held at Peshawar on: 25 Oct 2022



Session held at Quetta on: 23 Nov 2022

## 05

# ADVOCATING THE LAW

## Section 29

§ 29 of the Act addresses Competition Advocacy. The Commission shall promote competition through advocacy which, among others, shall include creating awareness and imparting training about competition issues and taking such other actions as may be necessary for the promotion of competition culture.



## Advocacy Session with OICCI and Unilever Pakistan Focuses on Fair Business Practices



CCP Chairperson, Ms. Rahat Kaunain Hassan, along with General Secretary OICCI, Mr. Abdul Aleem, and CEO Unilever Pakistan, Mr. Amir Paracha, during the session.

The Commission conducted a learning and awareness session with members of the Overseas Investors Chambers of Commerce & Industry (OICCI) to educate them on fair marketing practices and the consequences of violating Section 10 of the Act, 2010 for consumers, businesses, and the economy. The session was hosted by Unilever Pakistan, a member of OICCI, and attended by its CEO and senior team members, along with member undertakings of OICCI.

The Chairperson of CCP, Ms. Rahat Kaunain Hassan, along with Member, Mr. Mujtaba Ahmed Lodhi, and other senior officers, addressed the session. The purpose of the session was to encourage compliance and corrective behavior in enforcing the provisions of Section 10, and guidelines in light of the Commission's decision/precedence will be issued soon to help understand the precautionary principles relating to deceptive marketing.

The Chairperson emphasized that deceptive marketing practices have a direct impact on

consumers and businesses, and firms must avoid such practices while advertising their products and services. The undertakings can seek advice and clarity from the Commission on any actual competition matter where any potential violation is apprehended to avoid such violation.

The Commission's representatives highlighted that while designing the marketing campaigns, firms must not make deceptive claims, hide important/material information, and/or use the competitors' patent designs, firm name, color scheme, and registered trademark. The presentation also covered the overall framework of the Act.

The Chairperson also stressed that undertakings must refrain from entering into arrangements of retail price maintenance (RPM) as it is a form of price fixing, and globally, in the majority of jurisdictions, it is taken to be anticompetitive. She referred to the recent case of RPM amongst electronic home appliance manufacturers where the Commission imposed a total penalty of more than PKR 1 billion. She

further added that the choice to offer forms of discount or package deals is an important part of the negotiating process with consumers, which should be left to dealers as per their own independent commercial decisions.

The Commission's representatives urged businesses to come forward and flag all aspects where any practice or policy is resulting in competition infringement or market distortions as the Commission is committed to providing fair play to businesses.

At the session, Mr. Abdul Aleem acknowledged that the Commission is playing an active role in ensuring a competitive business environment, which is a prerequisite for a conducive foreign investment climate. Mr. Amir Paracha, CEO Unilever Pakistan, and his team thanked the Commission for arranging the advocacy session and acknowledged its critical role in keeping the industry grounded, fair, and objective while protecting the interests of the stakeholders.

# Competition Issues Highlighted in Advocacy Session at Korangi Association of Trade and Industry (KATI)

In continuation of its advocacy initiatives to create awareness about competition law and sensitize the business community, the Commission's team visited the Korangi Association of Trade & Industry (KATI). During the session, the Chairperson Ms. Rahat Kaunain Hassan, accompanied by Member Mr. Mujtaba Ahmed Lodhi and other senior officers, addressed the participants, including KATI President Mr. Faraz-ur-Rehman, Senior Vice President Ms. Nighat Awan, Vice President Mr. Muslim S. Mohamedi, and other members.

The Chairperson emphasized the importance of competition and fair play in economic activities and encouraged businesses to reach out to the Commission in case of anti-competitive behavior and policy distortions. She added that the Commission believes in enforcing the law without fear or favor, and its decisions across different sectors of the economy demonstrate this commitment. The impact of the Commission's decisions will become visible to consumers once the cartel cases are judicially reviewed on merit.

A presentation on the Competition Act was given, explaining the role and powers of the Commission, and guiding the participants on how to file a complaint. The Commission has undertaken a record number of enforcement actions, including the conclusion of 37 enquiries, initiation of 38 new enquiries, and issuance of

15 orders against 134 undertakings, imposing an aggregate penalty of approximately PKR. 45 billion during the last two years. The major sectors where these enforcement actions were taken include cement, pulses, tractor, sugar, poultry, power, and milk.

During the Q&A session, the KATI members raised several competition issues and asked for the Commission's help in resolving those issues. They complained about collusive practices in the shipping line industry and exorbitant prices of goods and services impacting exports from Pakistan. They also expressed their concern about the high prices of ghee and cooking oil despite a reduction in the international prices of palm oil. The CCP assured them that an enquiry is already underway regarding this matter.

KATI President appreciated the Commission's role in creating a level playing field for all businesses and extended the association's support in creating awareness and encouraging compliance with the law. KATI represents over 5000 industrial, commercial, and service concerns operating in the Korangi Industrial Area (KIA), providing employing roughly 1.5 million workers. The area is home to important sectors such as textiles, leather, pharmaceuticals, chemicals, engineering, towel, paint, two large oil refineries, and food industries, including spices, biscuits, tea, and cooking oil. 40% of Pakistan's leather exports are routed from KIA.



CCP team with senior management of Korangi Association of Trade & Industry (KATI) during the session.



CCP Chairperson, Ms. Rahat Kaunain Hassan, accompanied by Member, Mr. Mujtaba Ahmed Lodhi, and other senior officers with President KATI, Mr. Faraz-ur-Rehman, Senior Vice President, Ms. Nighat Awan, Vice President, Mr. Muslim S. Mohamedi, and other members of KATI.

## Advocacy Session with Quetta Chamber of Commerce & Industry

An advocacy session was held at the Quetta Chamber of Commerce & Industry (QCCI) to create awareness among the business community of Quetta and its adjoining areas. The session was attended by the President of QCCI, the Vice President, the Former Senior Vice President, executive committee members, and representatives of the business community.

During the session, Chairperson Ms. Rahat Kaunain Hassan emphasized the importance of truthful marketing practices and how deceptive marketing practices can hurt both consumers and competitors. She urged businesses to be honest in their marketing efforts.



CCP team with President, Vice President and Executive Committee Members of QCCI.



## Nestle Hosts Awareness Session for FMCG Sector

Nestle Pakistan hosted a seminar on Competition Law for the FMCG sector, which was attended by numerous representatives from FMCG firms in Punjab. The seminar was joined by the Commission's team, which included Chairperson Ms. Rahat Kaunain Hassan, Member Mr. Mujtaba Ahmad Lodhi, and senior officers. The Commission's presentation explained the prohibitions under the competition law, particularly deceptive marketing practices, and highlighted that these practices not only harm the business interests of undertakings but also consumers and the economy in general. During the question and answer session, the participants raised various queries to gain more clarity on the law and expressed their appreciation for CCP's efforts in promoting a competitive environment in the economy.



CCP team with the participants of the session.



# Capacity Building Session on “Overview of CPEC: Challenges and Opportunities”.



▲ A group photograph of CCP's Chairperson and officers with Mr Haroon Sharif, former Minister of State and Ex-Chairman of the Board of Investment

Mr. Haroon Sharif, former Minister of State and former Chairman of the Board of Investment (BoI), visited the Competition Commission of Pakistan (CCP) for an interactive session with the Commission's officers and senior management team on the “Overview of CPEC (China – Pakistan Economic Corridor) – Challenges & Opportunities.”

During the session, Mr. Sharif discussed the various economic aspects of CPEC, including infrastructure, industrial cooperation, information technology, special economic zones, economic and industrial policy, agriculture, and copyrights. He emphasized that CPEC has enormous potential to drive Pakistan's progress and development through regional connectivity, diverse investment opportunities, industrial,

financial, and agricultural cooperation, and socio-economic development.

Mr. Sharif also highlighted the importance of carefully crafted investment and industrial policies and focused on Pakistan's comparative advantage in value-added textiles, agriculture-based food processing, and information technology to ensure the success of CPEC. In the context of the CCP's role in the economy with regards to CPEC, Mr. Sharif recommended that the Commission could assist the government of Pakistan through policy guidelines to end protectionism in various sectors and open them up to competition to attract foreign investment.

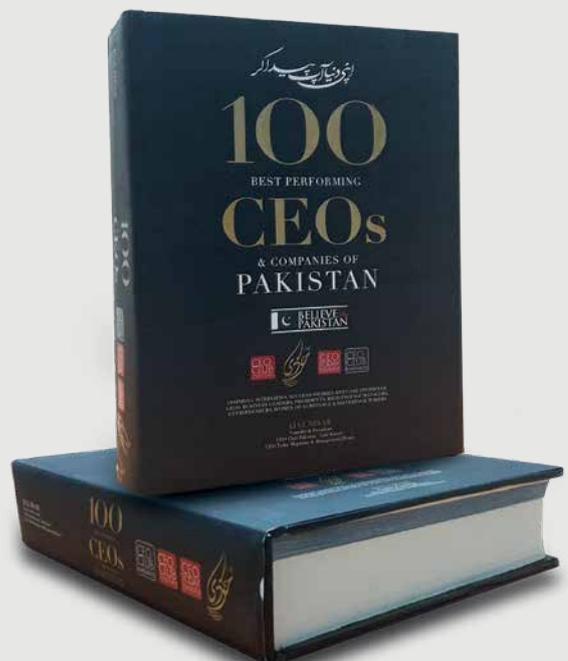
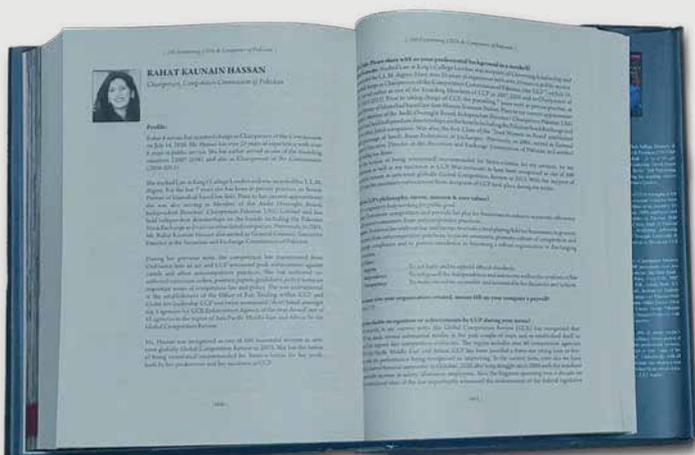
The Chairperson Ms. Rahat Kaunain Hassan thanked Mr. Sharif for taking time out and sharing

his incisive insights on the subject. With respect to his recommendation to have a knowledge-based collaboration with relevant Chinese authorities, she informed that the Commission has already signed in principle, a Memorandum of Understanding, with its counterpart in China and are waiting for the Cabinet's approval in this regard.

*“The Commission has already signed in principle, an MoU, with its counterpart in China and is waiting for the Cabinet's approval in this regard.”*

- CCP Chairperson

## WOMEN OF SUBSTANCE IN PAKISTAN Ms. Rahat Kaunain Hassan's Profile, Interview Features in the book, “100 Best Performing CEOs & Companies of Pakistan”





## CCP TEAM BRIEFED ON Success Story of Universal Health Program



On an invitation of the CCP Chairperson, Mr. M. Arshad Qaim-khani, the Chief Executive Officer of the Prime Minister Health Programme/ Sehat Sahulat Programme/Sehet Card, visited the CCP for an interactive session on "Major health reforms, Sehat Sahulat Programme, and Competition Issues in the health sector".

While giving an overview of the Universal Health Insurance Programme, Mr. Qaim-khani informed that currently, around 170 million Pakistanis are availing free-of-cost health services in public and private hospitals across Pakistan. The programme covers Khyber Pakhtunkhwa including all districts/agencies of erstwhile FATA, Punjab, Federal Capital, Tharparkar (District Sindh), Azad Jammu & Kashmir and Gilgit Baltistan. He added that with the inclusion of the rest of the Sindh and

Balochistan, the programme will be extended to the whole of Pakistan and all the 230 million (approx.) Pakistanis will benefit from it.

He said that to facilitate the citizens, the National Identity Card has been declared as the Qaumi Sehat Card, which covers full hospitalization services. To further facilitate the citizens, renal transplant and maternity treatment were also covered in the programme. He informed that on average, 15 thousand (approx.) lives are being saved through their free-of-cost treatment in around 1000 registered hospitals out of which 70 percent are private and 30 percent are public hospitals. Discussing the financial and regulatory aspects of the health programme, Mr. Qaim-khani said that the programme is modelled on a sustainable financial basis. Currently, the health budget of Pakistan's all provinces, regional and

federal is 1000 billion rupees (approx.), whereas even when the health card will be given to the whole population, i.e., 230 million people, its total budget would be 230 billion rupees (approx.), which makes only 23 percent of the national health budget.

The Chairperson Ms. Rahat Kaunain Hassan appreciated and thanked Mr. Qaim-khani for sharing the inspiring story. She hoped that the health programme would promote competition and efficiencies and help bring innovation and attract foreign direct investment in the health sector. The Sehat Sahulat Programme under the Universal Health Insurance Programme has helped improve Pakistan's SDG-3 position, she added.

## Chairman OGRA Visits CCP for **Interactive Session**



Chairman Oil and Gas Regulatory Authority (OGRA) Mr. Masroor Khan was invited by the CCP for an interactive session with the CCP's senior management and officers. During the interactive session, he presented a brief overview of Oil and Gas sector, the regulatory framework, the role and responsibilities of OGRA, and the industry's challenges and opportunities. On this occasion, he emphasized the introduction of technology to make the industry more robust and competitive and stated that moving towards

deregulation will require extensive thinking and planning, to ensure a smooth and successful transition.

The CCP Chairperson, Ms. Rahat Kaunain Hassan, commended and thanked Mr. Khan for his insightful presentation and hoped that given the commonalities in the roles and mandates of CCP and OGRA, both organizations can work together for fostering competition through research initiatives.

*"For moving towards deregulation will require extensive thinking and planning, in order to ensure a smooth and successful transition."*

- Chairman OGRA

## 06

INTERNATIONAL  
AFFAIRS

The Commission's Officers Participated in  
the Following International Activities

*July - December 2022*

SR.	DATE	DESCRIPTION
01.	21 <sup>st</sup> September, 2022	ICN Advocacy Working Group webinar on 'Optimizing Advocacy To Enhance International Cooperation Towards More Effective Enforcement'
02.	28 <sup>th</sup> October, 2022	ICN Cartels Working Group Webinar on 'Cross border Cartels'
03.	16 <sup>th</sup> November, 2022	ICN Cartels Working Group 'Agency-only Roundtable 2022'
04.	24 <sup>th</sup> November, 2022	ICN Mergers Working Group Webinar on 'Competitive Assessments in Digital Mergers'
05.	1-2 December, 2022	OECD Global Forum on Competition
06.	13-14 December, 2022	Kuwait National Conference- Virtual Event



CCP raids premises of float glass makers on suspicion of cartelisation

By our correspondent

ISLAMABAD: The Competition Commission of Pakistan (CCP) has raided two float glass manufacturers for conducting a search and inspection on suspicion of cartelisation.

Violation of Section 10

CCP issues show-cause notice to online education institute

ہاور میں دو فلٹ گلاس مینوفیکچررز کمپنیوں کی اسپیکریشن کی تفتیش میں گھجور کر رہی تھیں، ریکارڈ قبضے میں آئے۔

CCP takes action against PESCO for abusing dominant position

Requires it to restore Right of Way for cable

مسئلہ لون پیشکش، مسابقتی کمیشن کی تحقیقات کے نتیجے میں PESCO کے خلاف کارروائی کی گئی۔

ایسی ایسی کو کارپوریشن کے خلاف کارروائی کی گئی۔

conducts search & inspection of float glass manufacturers

REPORTER

pricing of float glass was also the same and utilization of their also came to know

CCP awarded three-star rating by global competition review

ISLAMABAD

10 essential food commodities

CCP completes draft study aimed at addressing market distortions

SOHAIL SARFRAZ

Mujtaba Ahmed Lodhi; and export potentials such as

ISLAM Competition Pakistan

SC upholds CCP's findings

utilization in poultry sector

account that the said advertisements by the PPA were discontinued after a few days, i.e., "after two days for eggs and three days for poultry", it said. The apex court directed the PPA to pay the Rs 15 million penalty within 15 days from the date

financial penalties. Under Section 10 of the Competition Act, the Commission can impose a fine of up to 10% of the turnover of the Government, but it has to make rules for this. The SC has ordered the PPA to pay the fine within 15 days from the date of the order.

CCP takes notice of apps offering loans on Google Play

ISLAMABAD: The Competition Commission of Pakistan (CCP) has taken notice of the various emerging concerns regarding mobile applications on Google Play Store offering nano/micro personal loans to vulnerable customers, mostly belonging to the lower to middle income class customers. After the appearance of a new leading

claims of data privacy and security, collecting personal data on the pretext of offering loans, the discrepancy in repayments, and credit range advertised vis a vis those actually offered. The Commission is the first regulatory body that formally initiated an enquiry into the matter in

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