

While the above transactions may be exempt from pre-merger notification, they may still be subject to substantive review under the Ordinance, if so deemed appropriate by the Commission.”

[No. 9(1) SY/CCP/Reg/M.Control/07.]

S. R. O. 1126/(I) 2008.— In exercise of the powers conferred by section 56 of the Competition Ordinance, 2008 (the Ordinance), the Competition Commission of Pakistan (the Commission), is pleased to make the following amendments in the Competition Commission (General Enforcement) Regulations, 2007, namely:—

In the aforesaid regulations,—

1. in regulation 2, after clause (g), following new clause (gg) shall be added, namely:—

“(gg). “Fee schedule” means the schedule notified under section 20(2)(b) of the ordinance,”;

2. in regulation 3, in the second line, reference to section 9 shall be substituted with section 7;

3. in sub-regulation (6) of regulation 4, for the words and numbers “amounting to Rs.100,000/- or as may be prescribed by the Commission from time to time” the words “as prescribed under the Fee Schedule,” shall be substituted;

4. in regulation 4, in sub-regulation (6) the words, “the bank draft,” shall be substituted with the words, “a bank draft”;

5. in sub-regulation (3) of regulation 9, after the words and numbers, “Competition Commission (Extension in Exemption) Rules, 2007” the words “and accompanied with the fee as prescribed under the “Fee Schedule,” shall be added;

6. in Regulation 12, in sub-section (3) the reference of sub-regulation (3) shall be substituted with sub-regulation (2);

7. in sub-regulation (1) of regulation 19, for the words and numbers “Rs. 50,000”, the words “as prescribed under the Fee Schedule” shall be substituted;

8. in regulation 20, after sub-regulation (2), the following new sub-regulation shall be added, namely:—

“(3) No application made under sub-regulation (2) shall be processed unless it is accompanied by a processing fee as prescribed in the Fee Schedule”;

9. in regulation 26, in sub-regulation (2), in clause (e) thereof, the word “shall” be replaced with the word “may”;

10. in regulation 26, after sub-regulation (2), the following new sub-regulation shall be added, namely:—

“(3) During the course of hearing, any mutual agreement or an undertaking given by the parties may be recorded and signed by the persons, representing both the parties, who are duly authorized in this regard”;

11. after regulation 26, the following two new regulations 26A and 26B shall be inserted, namely:—

“**26A. Taking of Evidence.**—(1) Subject to the provisions of the Ordinance, the Commission may determine the manner and the nature of evidence that may be adduced in the proceedings before it.

(2) Without prejudice to sub-regulation (1), the Commission may for the purpose of inquiry or investigation, as the case may be,—

(a) admit evidence taken in the form of verifiable transcripts of tape recordings, unedited versions of video recording, electronic mail, telephone records including authenticated mobile telephone records, written signed un-sworn statements of individuals or signed responses to written questionnaires or interviews or comments or opinions or analyses of experts based upon market surveys or economic studies or other authoritative texts or otherwise, as documentary evidence;

(b) admit as genuine, every document purporting to be a certificate, certified copy or other document, which is by law declared to be admissible as evidence of any particular fact;

(c) admit the entries in the books of account, including those maintained in an electronic form, regularly kept in the course

of business, including entries in any public or other official book, register or record or an electronic record, made by a public servant in the discharge of his official duty, or by any other person in performance of a duty, specially enjoined by the law of the country in which such book, register or record or an electronic record is kept, as documentary evidence;

- (d) admit the opinion of any person acquainted with the handwriting of the person by whom a document is supposed to have been written or signed, as relevant fact to prove the handwriting of the person by whom the document was written or signed;
 - (e) admit the opinion of the handwriting experts or the experts in identifying finger impressions or the persons specially skilled in interpretation of foreign law or of science or art;
 - (f) take notice of the facts of which notice can be taken by a court of law under Article 112 of the Qanoun-e-Shahadat Order 1984 (X of 1984);
 - (g) accept the facts, which parties to the proceedings admit or agree in writing as proved; and
 - (h) presume that any document purporting to be a certified copy of any record of any authority, court or government of any country not forming part of Pakistan as genuine and accurate, if the document purports to be certified in any manner which is certified by any representative of the government of such country to be the manner commonly in use in that country for the certification of copies of such records, including certification by the Embassy or the High Commission of that country in Pakistan.
- (3) The Commission may call for the parties to lead evidence by way of affidavit or lead oral evidence in the matter.
 - (4) The Commission shall have the discretion to record the proceedings of taking evidence through either a tape recorder or a video camera.
 - (5) If the Commission directs evidence by a party to be led by way of oral submission, the Commission, if considered necessary or

expedient, grant an opportunity to the other party or parties, as the case may be, to cross examine the person giving the evidence.

(6) The Commission, if considered necessary or expedient, direct that the evidence of any of the parties to be recorded by an officer or person designated for the said purpose, in a manner so prescribed by the Commission.

(7) The Commission may direct the parties to file written note of arguments/submissions in the matter.”;

12. **“26B. Production of additional evidence before the Commission.—**

(1) The parties to the proceedings shall not be entitled to produce before the Commission additional evidence, either oral or documentary, which was in the possession or knowledge but was not produced before the Commission during the proceedings under section 30 of the Ordinance, but if the Commission requires any document to be produced or any witness to be examined or any affidavit to be filed to enable it to pass orders or for any other substantial cause, or if the Commission has not given sufficient opportunity to the party to adduce evidence, the Commission, for reasons to be recorded, may allow such document to be produced or witness to be examined or affidavit to be filed or may allow such evidence to be adduced.

(2) Such document may be produced or such witness examined or such evidence adduced before the Commission as the Commission may direct.

(3) If the document is directed to be produced or witness examined or evidence adduced before any authority, such authority shall comply with the directions of the Commission and after compliance, send the document, the record of the deposition of the witness or the record of the evidence adduced, to the Commission.

(4) Additional evidence/document may be made available by the Commission to the parties to the proceedings other than the party adducing the evidence.”;

13. in regulation 28, in sub-regulation (11), in clause (c), the sub-clause, “i. a price cap or other restraint on prices,” shall be deleted and the remaining clauses be remembered as i, ii & iii”

14. in regulation 29, in clause “(a) ii”, the word “inputs” shall be replaced with the word “outputs.”;

15. in regulation 29, clause “(b) i” shall be amended as under:—

“i. May generally look at measures of the degree of concentration as an indicator of the ability of leading undertakings in a market to exercise market power.”;

16. in regulation 30, in sub-regulation (1) the word, “mitigate” shall be substituted with the word, “reduce.”;

17. in regulation 35, in sub-regulation (3), in clause (a), the words, “the information” falling in the first line, shall be deleted,

18. in regulation 34, in sub-regulation (3), after the words, shall be “the words, accompanied by a fee as prescribed under the Fee Schedule”, shall be added,

19. after regulation 41, the following new regulations shall be added, namely:—

“41A. Fees.—(1) The fees payable to the Commission, shall be as prescribed under the Fee Schedule.

(2) The fees payable to the Commission may be paid in the form of bank challan deposited with a branch of the authorized bank of the Commission, or through a bank draft in favour of the Commission.

(3) Any document or application to be submitted to the Commission under the Ordinance or the rules/regulations made thereunder, shall not be deemed to have been submitted, until the fee prescribed under the “Fee Schedule” has been duly paid.

(4) The Fee Schedule may be amended by the Commission from time to time, and be notified in the official gazette.”;

“41B. Refund of fees.—Where any fee is required to be paid to the Commission, such fee shall not be refundable, whether in whole or in parts, except at the discretion of the Commission.”;

20. in sub-regulation (2), for the words “these regulations” the words “under the Fee Schedule,” shall be substituted;
21. after regulation 50, the following two new regulations shall be added, namely:—

“50A. Inspection and certified copies of documents.—(1) Subject to the provisions of regulation 48, a party to the proceedings, may, on an application in writing in that behalf addressed to the concerned Member of the Commission, be allowed to inspect or obtain copies of the documents or records submitted during proceedings on payment of fee as prescribed under the Fee Schedule.

(2) The concerned Member of the Commission may, on an application of a person, who is not a party to the proceedings, on sufficient cause demonstrated, allow such person inspection of documents or records mentioned in sub regulation (1) on payment of fee as prescribed under the Fee Schedule.

(3) An inspection shall be allowed only in the presence of an officer so authorized by the concerned Member of the Commission:—

Provided that the inspection of documents or copying thereof as per sub regulation (1) or sub regulation (2) shall be allowed under the supervision of and subject to the time limits to be prescribed by the concerned Member of the Commission or an officer so authorized by the concerned Member of the Commission in this behalf.

(4) An officer of the Federal or Provincial Government or a Regulatory Authority shall be allowed inspection and to obtain copies of documents or records mentioned in sub-regulation (1) on making written request to the concerned Member of the Commission for the purpose on payment of fee as prescribed under the Fee Schedule.”; and

22. **“50B. Copying charges.—**

(1) Copying charges of the record of the Commission for parties to the proceedings shall be as prescribed under the Fee Schedule.

(2) Copying charges for the certified copy of the order passed by the Member or any officer of the Commission shall be as prescribed under the Fee Schedule.”

23. After regulation 54, a new Part IX with the following three regulations 55 to 57 shall be inserted, namely:—

55. **Reward Payment to Informants Scheme.**—The Commission shall introduce a scheme of “Reward Payment to Informants”, aimed at uncovering and taking action against cartel activity.

56. **Salient features of the Scheme.**—Salient features of the aforesaid Scheme, its modus operandi and other details shall be provided in the guidelines to be issued by the Commission, in due course.

57. **Cases of leniency.**—This Scheme shall not apply to the cases of leniency as per section 39 of the Ordinance and the Competition (Leniency) Regulations, 2007.

[No. 9(2) SY/CCP/Reg/Gen. Enforcement/07.]

S. R. O. 1127/(I)/2008.—In exercise of the powers conferred by section 56 of the Competition Ordinance, 2008 (the Ordinance), the Competition Commission of Pakistan (the Commission), is pleased to make the following amendments in the Competition Commission (Leniency) Regulations, 2007, namely:—

In the aforesaid regulations,—

1. in regulation 3, in sub-regulation (1), in clause (i) thereof, the clause. “The undertaking is the first to provide the Commission with evidence of any activity leading to violation of Chapter II of the Ordinance,” shall be substituted with the following, namely:—

“The undertaking is the first to provide the Commission with evidence of any activity violating Chapter II of the Ordinance”;

2. in regulation 3, in sub-regulation (1), in clause (ii), the sub-clause (d) shall be deleted and the existing sub-clause (e), shall be re-numbered as sub-clause (d);
3. in regulation 6, in sub-regulation (2), the word, “and” between numbers 3 and 5, shall be substituted with “or”.