



# *Competition Commission of Pakistan*

## *Government of Pakistan*

### **Policy Note**

### ***In Re: Karachi Stock Exchange Listing Regulations***

#### **I. Background**

The Karachi Stock Exchange (KSE) amended its Listing Regulations on June 22, 2010. The amendments include a clause requiring directors of all listed companies to complete orientation courses in order to better equip them to act on behalf of shareholders of their respective companies. The amended Regulations require all the directors of the listed companies to get certification of “The Board Development Program” offered by the Pakistan Institute of Corporate Governance (PICG). The Regulations set June 30, 2011 as the deadline for at least one director from each listed company to have certification and requires a minimum of one director to acquire the certification in each subsequent year.

The Competition Commission of Pakistan (the “Commission”) is a body entrusted with the power to enforce the Competition Ordinance of 2010 (the “Ordinance”) and to address competition related issues in the economy. The proposed amended Listing Regulations, which have been forwarded for gazette notification, appear to create a monopoly of PICG by recognizing certification offered by PICG only, and are therefore in conflict with the competition principles enshrined in the Ordinance. Since the gazette notification has not yet been made, the Commission has decided to issue a Policy Note to the Securities and Exchange Commission of Pakistan (SECP), instead of taking an action against KSE, which is an “undertaking” as defined under Section 2(1)(p) of the Ordinance.

#### **II. The Listing Regulation**

Code of Corporate Governance, which forms a part of the KSE Listing Regulations, was amended on June 22, 2010. The relevant clause (xiv) Orientation Courses/Directors’ Educational Program is reproduced below:

##### **Orientation Courses/Directors’ Educational Program**

(xiv) All listed companies shall make appropriate arrangements to carry out orientation courses for their directors to acquaint them with their duties and responsibilities and enable them to manage the affairs of the listed companies on behalf of shareholders.

It will be mandatory for all the directors of the listed companies to have certification under “The Board Development Series” program offered by the Pakistan Institute of Corporate Governance. (Emphasis supplied)

Provided that at least one director shall be required to have such certification up to June 30, 2011 and thereafter, every following year minimum one director on the Board shall acquire the said certification under this program.

### **III. Competition Concerns**

Requiring certain qualification for a certain post or admission to professional association is a globally recognized phenomenon. However, specifying that certain qualification be attained from a specific institution amounts to creating entry barriers leading to the creation of a monopoly (dominant player) thereby preventing and restricting competition.

The Listing Regulation by exclusively recognizing the “Board Development Series” offered by the PICG, would:

- a. create entry barrier for other educational institutions of higher learning to offer similar programs;
- b. shield PICG from competitive pressure thereby taking away the incentives to improve/retain the quality of instruction and offer instructions at competitive fee structure; and
- c. limit the choice available to directors of the listed companies as to the institution, which in turn is dependent on the quality of faculty, location, fee structure, timing at which course is/will be offered, frequency of course offering during a calendar year, among other factors.

### **IV. Recommendations**

In light of the competition concerns identified above, it is recommended that:

- a. the proposed amendment in the Listing Regulations be revoked immediately; and
- b. instead of specifying a program offered by a particular institute, KSE may clearly prescribe the detailed requirements of the orientation course – by specifying the course curriculum, number of credit hours required, etc. – and may require the course be offered by PICG as well as other institutions recognized for this purpose by the Higher Education Commission.

(DR. JOSEPH WILSON)  
Member

ISLAMABAD, THE 12<sup>TH</sup> OF JULY, 2010.