



**International
Competition
Network**

ANTI-CARTEL ENFORCEMENT TEMPLATE

**CARTELS WORKING GROUP
Subgroup 2: Enforcement Techniques**

**Competition Commission of
Pakistan**

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ICN ANTI-CARTEL ENFORCEMENT TEMPLATE

IMPORTANT NOTES:

This template is intended to provide information for the ICN member competition agencies about each other's legislation concerning anti-competitive practices, particularly hardcore cartels. At the same time the template supplies information for businesses participating in cartel activities about the rules applicable to them; moreover, it enables businesses and individuals which suffer from cartel activity to get information about the possibilities of enforcement of their rights in private law in one or more jurisdictions.

Reading the template is not a substitute for consulting the referenced statutes and regulations. This template should be a starting point only.

[Please include, where applicable, any references to relevant statutory provisions, regulations or policies as well as references to publicly accessible sources, if any.]¹

1. Information on the law relating to cartels

A. Law(s) covering cartels:	Cartels between undertakings are prohibited under Section 4 of the Competition Act 2010 (https://www.cc.gov.pk/images/Downloads/competitionn_act_2010.pdf) Available in English Language.
B. Implementing regulation(s) (if any):	General Enforcement Regulations- http://cc.gov.pk/images/Downloads/regulations/general_enforcement_regulations.pdf Available in English Language.
C. Interpretative guideline(s) (if any):	The CCP's guidance on cartels can be found at: https://www.cc.gov.pk/images/Downloads/guidlines/guidelines_section_4.pdf Available in English Language. Guidance on the conduct on proceedings before the

¹ Editor's note: all the comments in [square brackets] are intended to assist the agency when answering this template, but will be removed once the completed template is made public.

	<p>Commission can be found at https://www.cc.gov.pk/images/Downloads/guidlines/conduct_of_proc.pdf – In English Language</p> <p>Guidance on imposition of Fines may be found at https://www.cc.gov.pk/images/Downloads/guidlines/imposition_of_financial_penalties.pdf – In English Language</p>
D. Other relevant materials (if any):	<p>Rules under Section 57 of the Act for the purpose of implementing the Act : http://cc.gov.pk/index.php?option=com_content&view=article&id=16&Itemid=119&lang=en in English Language</p> <p>Various guidelines in thematic areas: http://cc.gov.pk/index.php?option=com_content&view=article&id=20&Itemid=122&lang=en – In English Language</p> <p>Regulations http://cc.gov.pk/index.php?option=com_content&view=article&id=17&Itemid=120&lang=en – English Language</p>

2. Scope and nature of prohibition on cartels

<p>A. Does your law or case law define the term “cartel”?</p> <p>If not, please indicate the term you use instead.</p>	<p>The Competition Act, 2010 does not define the term ‘cartel’. However cartel activity is defined as ‘Prohibited Agreements’ under Section 4 of the act -</p> <p>“4. Prohibited Agreements.--(l) No undertaking or association of undertakings shall enter into any agreement or, in the case of an association of undertakings, shall make a decision in respect of the production, supply, distribution, acquisition or control of goods or the provision of services which have the object or effect of preventing, restricting, or reducing competition within the relevant market unless exempted under section 5”</p> <p>The term Cartel is however used in interpretative guidelines on Section 4 of the Act as : https://www.cc.gov.pk/images/Downloads/guidlines/guidelines_section_4.pdf</p> <p>Other Terms used: Collusive tendering, concerted practices, prohibited agreements</p>
<p>B. Does your legislation or case law distinguish between very serious cartel behaviour (“hardcore cartels” – e.g.: price fixing, market sharing, bid rigging or production or sales quotas²) and other types of “cartels”?</p>	<p>Guidelines on Section 4 explain <i>Per se</i> violations known as hardcore cartel arrangements (horizontal arrangements) that seek to fix prices, allocate quotas, share markets, restrict output, and limit technical progress and investment, or bid rigging.</p>
<p>C. Scope of the prohibition of hardcore cartels:</p>	<p>There are various exemptions to the Section 4” prohibited agreements”. These are set out in Section 5 and Section 6. Further information can be found here:</p>

² In some jurisdictions these types of cartels – and possibly some others – are regarded as particularly serious violations. These types of cartels are generally referred to as “hardcore cartels”. Hereinafter this terminology is used.

	<p>https://www.cc.gov.pk/images/Downloads/competitonn_act_2010.pdf</p> <p>Exemption regulations: https://www.cc.gov.pk/images/Downloads/regulations/exemptions_regulations_2020.pdf</p> <p>The main points of the exemption regulations are as under:</p> <ol style="list-style-type: none"> 1. The Commission may grant following types of exemptions: <ol style="list-style-type: none"> a. Individual Exemptions: Agreement which attracts the provision of Section 4 of the Act and meets the criteria given for exemption in Section 9 of the Act. b. Template Exemptions: Vertical agreements entered into by and between the manufacturer and supplier or distributor which attracts the provision of Section 4 of the Act and meets the criteria given for exemption in Section 9 of the Act c. Block Exemptions; Agreements which fall into particular category of agreements and satisfies the criteria of being free of hardcore restrictions, non-compete clauses and market shares of concerned undertakings does not exceed 40%). 2. The undertakings concerned shall file an application on the prescribed form under the Schedules to these regulations. The application procedure is elucidated in regulation 4 of the Exemption Regulations 2020. 3. The Schedules in the regulations also contain details of the exemption fees in case of fresh case of exemption or extension in the existing exemption for each type of exemption. 4. Where the Commission receives an application made under regulation 4 above, the Commission may decide the matter on the basis of the record made available or it may commence an inquiry to ascertain the facts for granting exemptions. 5. In order to ensure compliance with any conditions imposed, the Commission may require the concerned undertaking to provide a monthly compliance statement and a further statement of compliance on periodical basis. 6. Upon request by the applicant, the Commission may keep any documents submitted by the applicant confidential until such time as deemed appropriate by the Commission. 7. Where the Commission has granted exemption subject to conditions, any breach of such conditions may result in cancellation of the exemption.
<p>D. Is participation in a hardcore cartel illegal <i>per se</i>³?</p>	<p>Section 4 applies to all agreements between undertakings in the market, whether operating at a horizontal or vertical level. Section 4 of the Act characterizes certain business practices as <i>per se</i></p>

³ For the purposes of this template the notion of 'per se' covers both 'per se' and 'by object', as these terms are synonyms used in different jurisdictions.

	<p>violations of the Act by their very 'object'. In general, horizontal agreements between competitors in the same market are per se violations of Section 4 of the Act. On the other hand, vertical agreements between undertakings operating at different levels of the market, generally have efficiency enhancing benefits that outweigh the potential anti-competitive effects. However, there may be situations where this is not the case.</p> <p>Any agreement that seek to fix prices, allocate quotas, share markets, restrict output, and limit technical progress and investment, or bid rigging are considered as per se violations of the Act.</p>
E. Is participation in a hardcore cartel a civil or administrative or criminal offence, or a combination of these?	<p>The Competition Commission of Pakistan can only impose administrative sanctions on the undertakings participating in the cartel. In our law, a cartel is not considered to be treated as criminal offence. CCP does not have any obligation to notify this conduct to the prosecution/criminal court.</p> <p>https://www.cc.gov.pk/images/Downloads/guidlines/imposition_of_financial_penalties.pdf that Sets out decisions on imposing fines for violation of Section 4 of the Act</p>

3. Investigating institution(s)

A. Name of the agency, which investigates cartels:	The Competition Commission of Pakistan
B. Contact details of the agency:	<p>7th Floor South , ISE Towers 55-B, Jinnah Avenue, Islamabad, Pakistan Ph: (+92) 51-9100260-3 Fx: (+92) 51-9100251 https://www.cc.gov.pk/index.php?option=com_content&view=article&id=8&Itemid=219&lang=en Email: info@cc.gov.pk Language- English</p>
C. Information point for potential complainants:	<p>Mr. Adnan Saeed Malik Senior Joint Director (Litigation)/Acting Registrar +92-51-9100291</p>
D. Contact point where complaints can be lodged:	<p>Written complaints can be sent to the following postal address: 7th Floor South , ISE Towers 55-B, Jinnah Avenue, Islamabad, Pakistan</p> <p>Electronic complaints can be sent to the following e-mail: complaints@cc.gov.pk Furthermore, complaints can be lodged Online through website, an application form integrated to CCP's Information System, through which citizens can report anticompetitive practices. The link is for online portal is: http://cc.gov.pk/index.php?option=com_chronoforms&chronoform=Complaint_Form&lang=en</p>

	http://203.99.62.74/CMS/complaint.aspx
E. Are there other authorities which may assist the investigating agency? If yes, please name the authorities and the type of assistance they provide.	Yes, The Competition Act, 2010 lays an obligation on all offices and agencies of the Federal Government and Provincial Governments to supply free of costs or charges information requested by the Commission in the discharge of its functions under the Act;. This assistance may consist of an exchange of information within the framework such as among Federal Investigation Agency and National Accountability Bureau. It may also consist of cooperation in carrying out on-the-spot investigations such as Police for raids, Federal Board of Revenue for Central Data Repository for easy data access and other Sector regulators.

4. Decision-making institution(s)⁴ [to be filled in only if this is different from the investigating agency]

A. Name of the agency making decisions in cartel cases:	N/A Yes, it is the same investigating agency defined under Section 3 above i.e. Competition Commission of Pakistan.
B. Contact details of the agency:	N/A
C. Contact point for questions and consultations:	N/A
D. Describe the role of the investigating agency in the process leading to the sanctioning of the cartel conduct.	N/A
E. What is the role of the investigating agency if cartel cases belong under criminal proceedings?	N/A

5. Handling complaints and initiation of proceedings

⁴ Meaning: institution taking a decision on the merits of the case (e.g. prohibition decision, imposition of fine, etc.)

A. Basis for initiating investigations in cartel cases:	An investigation on a given cartel may be initiated through complaints, whistleblowers, ex officio, or based on leniency applications.
B. Are complaints required to be made in a specific form (e.g. by phone, in writing, on a form, etc.)?	Complaints can be lodged in any form: orally, by phone or in writing through online portal or by post. Even anonymous complaints are acceptable. However, it facilitates the investigation if the complaint includes details and exact determinations of the alleged infringement. Therefore, a written complaint with copies of documents with potential relevance to the proceeding attached is most suitable. The Commission has also initiated a whistle blower hotline that allows an informant to lodge an anonymous tip.
C. Legal requirements for lodging a complaint against a cartel:	There's no legal requirements for lodging a complaint against a cartel.
D. Is the investigating agency obliged to take action on each complaint that it receives or does it have discretion in this respect?	The Commission is obliged to carefully examine the factual and legal elements brought to its attention by the complainant. It is however not required to conduct an investigation in each case.
E. If the agency intends not to pursue a complaint, is it required to adopt a decision addressed to the complainant explaining its reasons?	With respect to formal complaints, undertakings are given opportunity to be heard and are informed of the Commissions decisions. Informal complaints are treated under suo moto jurisdiction and there is no such legal obligation to inform the complainant. However, as per practice the complainant is informed of the agency's decision whenever such matter is closed.
F. Is there a time limit counted from the date of receipt of a complaint by the competition agency for taking the decision on whether to investigate or reject it?	There is no statutory time limit, however, the Commission is obliged to decide on complaints within a reasonable time

6. Leniency policy⁵

A. What is the official name of your leniency policy (if any)?	Leniency regulations 2019 Available: http://cc.gov.pk/images/Downloads/regulations/leniency_regulation_sept_21_2019.pdf
B. Does your jurisdiction offer full leniency as well as partial	Yes, Section 39 of the Competition Act 2010 offer full leniency

⁵ For the purposes of this template the notion of 'leniency' covers both full leniency and a reduction in the sanction or fines. Moreover, for the purposes of this template terms like 'leniency' 'amnesty' and 'immunity' are considered as synonyms.

<p>leniency (i.e. reduction in the sanction / fine), depending on the case?</p>	<p>as well as partial leniency.</p>
<p>C. Who is eligible for full leniency?</p>	<p>Any exemption from a penalty or imposition of a lesser penalty shall be made only in respect of an undertaking that is a party to a prohibited agreement which first made the full and true disclosure under this section.</p>
<p>D. Is eligibility for leniency dependent on the enforcing agency having either no knowledge of the cartel or insufficient knowledge of the cartel to initiate an investigation?</p> <p>In this context, is the date (the moment) at which participants in the cartel come forward with information (before or after the opening of an investigation) of any relevance for the outcome of leniency applications?</p>	<p>If the undertaking is the first to submit evidence which in the Commission's view, at the time of evaluating the application enables the Commission to carry out an investigation in connection with the alleged prohibited agreement and the Commission does not have sufficient information to establish the existence of prohibited agreement.</p> <p>Partial Leniency:</p> <ul style="list-style-type: none"> • Submitted prior to the show cause notice under section 30 of the Act • After initiation of proceedings under Section 30, but before the commission has passed an order
<p>E. Who can be a beneficiary of the leniency program (individual / businesses)?</p>	<p>Undertakings</p>
<p>F. What are the conditions of availability of full leniency:</p>	<p>Any application of leniency under leniency regulations 2019 shall be entertained subject to the conditions imposed by the Commission including that the Applicant:</p> <ol style="list-style-type: none"> (a) Admits the infringement of the provisions of Section 4 of the Act unconditionally; (b) Abandon its participation in the alleged Prohibited Agreement forthwith unless otherwise required by the Commission; and (c) Makes full and true disclosure of all the facts within its knowledge relating to the alleged Prohibited agreement
<p>G. What are the conditions of availability of partial leniency (such as reduction of sanction / fine / imprisonment):</p>	<p>An undertaking may benefit from reduction in the financial penalty if</p> <ol style="list-style-type: none"> (a) The Undertaking seeking reduction provides the Commission with material, additional, contemporaneous. Evidence of the alleged Prohibited Agreement; and (b) This information is given to the Commission: <ul style="list-style-type: none"> • Prior to issuance of Show Cause Notice under Section 30 of the Act; or • After initiation of proceedings under Section 30 of the Act but before the Commission has passed an Order under Section 31 of the Act

	<p>The Undertaking submits additional Evidence, which is previously unknown to the Commission, and it represents Significant Added Value with respect to the Evidence already in the Commission's possession, thus further substantiating the Alleged prohibited Agreement.</p>
<p>H. Obligations for the beneficiary after the leniency application has been accepted:</p>	<p>The Undertaking:</p> <ul style="list-style-type: none"> (a) Provides the Commission with all the Evidence available regarding the alleged Prohibited Agreement in a timely manner (b) Does not conceal, destroy, manipulate or remove any Evidence that may be crucial for the investigation (c) Makes current and if possible former persons associated with the participants and parties to the alleged Prohibited Agreement available for interviews with the Commission (d) Maintains continuous and complete cooperation throughout the proceedings in connection with the alleged Prohibited Agreement as initiated by the Commission; (e) Refrains from further participation in the alleged Prohibited Agreement from the time of its disclosure to the Commission or as otherwise required by the Commission; and (f) Has not taken any steps to coerce another undertaking to take part in the alleged Prohibited Agreement
<p>I. Are there formal requirements to make a leniency application?</p>	<p>An undertaking intending to apply for immunity under regulation 3 of leniency regulations 2019, shall initially apply, through a properly authorized representative, for a Marker, reserving its place in the queue for a period determined by the Commission, The Applicant must provide the Commission with complete information within its knowledge and possession concerning:</p> <ul style="list-style-type: none"> • identity and contact details of the Undertaking; • the parties to the alleged Prohibited Agreement including their contact details, locations and extent of participation; • the affected product(s) and market(s); • the affected territory (-ies); • the estimated market volumes affected; • the nature of the alleged Prohibited Agreement inter alia price fixing; output restriction; bid rigging; market, customer, or territory sharing; • the estimated duration of the alleged infringement; • all Evidence available at the time of applying for a Marker, including but not limited to the aim, intent, purpose of the alleged Prohibited Agreement and the effect, functioning and activities carried out

	<p>thereunder and as a consequence thereof; and</p> <ul style="list-style-type: none"> information on any past or possible future leniency application to any other competition authority in the world in relation to the alleged Prohibited Agreement. <p>Authorized Representative means and include an individual or authorized by the individual, a company or other body corporate duly authorized by the company or a partnership firm or a partner of that firm authorized by the partners.</p>
<p>J. Are there distinct procedural steps within the leniency program?</p>	<p>The procedural steps within the Leniency Programme include the possibility to place a marker.</p>
<p>K. At which time during the application process is the applicant given certainty with respect to its eligibility for leniency, and how is this done?</p>	<p>Once an Applicant has provided all the Evidence available with it relating to the alleged Prohibited Agreement as mentioned under these Regulations, and the Commission is satisfied that the Applicant has made a full and true disclosure in respect of the alleged Prohibited Agreement, it may grant immunity or reduction in the amount of financial penalties under regulation 3, 4 or 5 as it may deem fit by way of issuing a letter. However successful applicants will at the time of first applying secure 'markers' protecting their position.</p>
<p>L. What is the legal basis for the power to agree to grant leniency? Is leniency granted on the basis of an agreement or is it laid down in a (formal) decision? Who within the agency decides about leniency applications?</p>	<p>It may grant immunity or reduction in the amount of financial penalties under regulation 3, 4 or 5 as it may deem fit by way of issuing a letter.</p> <p>The Commission decides about the leniency application</p>
<p>M. Do you have a marker⁶ system? If yes, please describe it.</p>	<p>Yes. An Undertaking intending to apply for immunity under regulation 3 shall initially apply, through a properly authorized representative, for a Marker, reserving its place in the queue for a period determined by the Commission, so as to allow the Undertaking to gather the necessary Evidence.</p> <p>Where a Marker is granted, it must be perfected by the Undertaking by submitting the Evidence, including information contemporaneous to the alleged Prohibited Agreement, required to meet the relevant requirements under regulation 3 within the time period determined by the Commission.</p> <p>If the Applicant perfects the Marker within the prescribed period, the information and Evidence provided will be deemed to have been submitted on the date when the Marker was granted.</p> <p>While processing a Marker, the Commission may not consider other Marker(s) for immunity or applications for reduction in the amount of penalties related to the alleged Prohibited Agreement before it has taken a position on the current Marker.</p> <p>Where benefit of immunity is not granted to the current marker holder, the next Undertaking shall move up the queue and the procedure prescribed above in sub-regulation (1) to</p>

⁶ A marker protects an applicant's place in the queue for a given period of time and allows it to gather the necessary information and evidence in order to meet the relevant evidential threshold for immunity.

	(5) of Regulation 6(A), as in the case of the current market holder, shall apply mutatis mutandis.
N. Does the system provide for any extra credit⁷ for disclosing additional violations?	An Undertaking failing to provide sufficient Evidence for grant of immunity in relation to a Prohibited Agreement in one market may be considered for reduction in the amount of financial penalties based on its cooperation in relation to a Prohibited Agreement in another market "Leniency Plus".
O. Is the agency required to keep the identity of the beneficiary confidential? If yes, please elaborate.	Upon the Applicant's request, the Commission shall endeavour, to the extent that is consistent with its obligations to disclose or exchange information in accordance with the Act, to keep the identity of the Applicant, confidential until the decision of the Commission to grant Leniency under regulation 3, 4 or 5 has been made or until such time as deemed appropriate by the Commission.
P. Is there a possibility of appealing an agency's decision rejecting a leniency application?	Yes
Q. Contact point where a leniency application can be lodged:	For leniency applications, the Undertaking shall contact the Commission, through a properly authorized representative in the following manner: <ul style="list-style-type: none"> a) the initial contact shall be with the Director General of the Cartels and Trade Abuses Department of the Commission either through telephonic means or by an email at leniency@cc.gov.pk, with the identity not to be disclosed as part of the record; b) after the initial contact, an officer, not less than the rank of Director, shall be designated by the Chairperson, and in the absence of the Chairperson by the Member supervising the Cartels and Trade Abuses Department, to liaise with the Applicant.
R. Does the policy address the possibility of leniency being revoked? If yes, describe the circumstances where revocation would occur. Can an appeal be made against a decision to revoke leniency?	The Commission may if it is satisfied that any undertaking which has been granted lenient treatment under subsection (1) failed to comply with the conditions on which a lesser penalty was imposed had given false evidence, revoke the leniency provision and impose on the undertaking the penalty provided under section 38. (section 39 (3) Competition Act 2010)
S. Does your policy allow for "affirmative leniency", that is the possibility of the agency approaching potential leniency applicants?	No
T. Does your authority have rules to protect leniency material from disclosure? If yes, please elaborate which parts are protected and what does	No, however the Commission is bound for non disclosure.

⁷ Also known as: "leniency plus", "amnesty plus" or "immunity plus". This category covers situations where a leniency applicant, in order to get as lenient treatment as possible in a particular case, offers to reveal information about participation in another cartel distinct from the one which is the subject of its first leniency application.

protection actually mean.	
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7. Settlement

A. Does your competition regime allow settlement? If yes, please indicate its public availability.	N/A
B. Which types of restrictive agreements are eligible for settlement?	N/A
C. What is the reward of the settlement for the parties?	N/A
D. May a reduction for settling be cumulated with a leniency reward?	N/A
E. List the criteria (if there is any) determining the cases which are suitable for settlement.	N/A
F. Describe briefly the system.	N/A
F. Describe the procedural efficiencies of your settlement system.	N/A
G. Does a settlement necessitate that the parties acknowledge their liability for the violation?	N/A
H. Is there a possibility for settled parties to appeal a settlement decision at court?	N/A

8. Commitment

A. Does your competition regime allow the possibility of commitment? If yes, please indicate its public availability..	Yes, Regulation 30 of General Enforcement Rules 2007 allows for the possibility of commitments. General Enforcement Rules, 2007 (Link)
B. Which types of restrictive agreements are eligible for commitment? Are there violations which are	Eligible for commitment are all types of anticompetitive practices that may be subjected to administrative procedures. However, So far Commitment has only been undertaken in cases of vertical agreements only.

excluded from the commitment possibility?	
C. List the criteria (if there are any) determining the cases which are suitable for commitment.	The Commission, at any time before making a decision as to whether a situation has arisen or is likely to arise which shall mitigate, prevent, restrict or distort competition in the relevant market, may accept commitments from the concerned persons that remedy such situations.
D. Describe, which types of commitments are available under your competition law.	Commitments may be structural or behavioural or a combination of both, however behavioural remedies have been applied till date.
E. Describe briefly the system.	An undertaking under investigation can offer commitments at any time during the course of an investigation, until a decision is made.
I. Does a commitment decision necessitate that the parties acknowledge their liability for the violation?	No
J. Describe how your authority monitors the parties' compliance to the commitments.	Generally through intimation by the initial complainant or the affected parties. Also, CCP checks compliance through registrar as per the order and compliance clauses issued in the verdict. There is nothing in the order in this regard, initiation and monitoring of compliance is carried out by the registrar's office.
K. Is there a possibility for parties to appeal a commitment decision at court?	Yes, although since commitments are offered as an olive branch to the parties found in breach of the Competition Act, there is no tendency of taking such matters to appeal. Any commitments by the parties are incorporated in the order. Although there is no such precedence, under section 42 of the Act any person aggrieved by an order of the Commission comprising two or more Members or of the Appellate Bench of the Commission may within sixty days of the communication of the order, appeal to the Competition Appellate Tribunal.

9. Investigative powers of the enforcing institution(s)⁸

A. Briefly describe the investigative measures available to the enforcing agency such as requests for information, searches/raids⁹, electronic or computer searches, expert opinion, etc. and indicate whether such measures requires a court warrant.	The Competition Act 2010 vests the Commission with various powers to conduct enquiries. For the purpose of any proceedings, investigation or inquiry, the enquiry officers are granted the following investigative measures (a) Summoning and enforcing the attendance of any witness and examining him on oath; (b) discovery and production of any document or other material object producible as evidence; (c) accept evidence on affidavits
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⁸ "Enforcing institutions" may mean either the investigating or the decision-making institution or both.

⁹ "Searches/raids" means all types of search, raid or inspection measures.

	<p>(d) Requisitioning of any public record</p> <p>(e) Issuing of a commission for the examination of any witness, document or both</p> <p>(f) An authorized officer to enter and search any premises who may impound any accounts or documents and retain them for as long as may be necessary for the purposes of the Act</p> <p>(g) An investigating officer of the Commission may by written order, signed by any two Members enter any place or building by force in event of resistance by the undertaking.</p> <p>See Section 33, 34 and 35 of the Competition Act 2010 Regulation 23 General Enforcement Rules 2007</p>
B. Can private locations, such as residences, automobiles, briefcases and persons be searched, raided or inspected? Does this require authorisation by a court?	Yes, under the same conditions laid down under 9A
C. Can servers located outside the territory (abroad or in a cloud) be inspected? Are there special rules for this investigative power? Please explain!	There's no special rule for such investigative power however the inspection can be made under the same conditions as laid down under 9A
D. May evidence not falling under the scope of the authorisation allowing the inspection be seized / used as evidence in another case? If yes, under which circumstances (e.g. is a post-search court warrant needed)?	Evidence only related to the case are seized during dawn raids and any such evidence which can be used in another case or identifies another potential cartel and trade abuse then Commission has the power to take suo moto and initiate another case.
E. Have there been significant legal challenges to your use of investigative measures authorized by the courts? If yes, please briefly describe them.	In the majority of cases investigative measures are not challenged by the persons affected. CCP is deemed to be a civil court in some instances. However, its decisions and orders can be appealed in higher courts all the way up to Supreme Court.

10. Procedural rights of businesses / individuals

A. Key rights of defence in cartel cases: Please indicate the relevant legal provisions.	<ul style="list-style-type: none"> • Parties' rights are safeguarded by the Statute • Competition law requires that the parties of the alleged offence must be heard and record their responses with the Commission. • The right of representation • The right to defend • The right to appeal
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<p>B. Protection awarded to business secrets (competitively sensitive information): is there a difference depending on whether the information is provided under a compulsory legal order or provided under informal co-operation? Please indicate the relevant legal provisions.</p>	<p>The Commission decides which information to be treated as sensitive. However, to arrive at such a decision it is the concerned parties that ask the Commission to treat their information as confidential/sensitive. The Commission may ask the party for any clarification in making the said decision.</p>
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11. Limitation periods and deadlines

<p>A. What is the limitation period (if any) from the date of the termination of the infringement by which the investigation / proceedings must begin or a decision on the merits of the case must be made? Please describe potential suspension or interruption opportunities of this limitation period and the requirements for such rules to apply!</p>	<p>No Limitation period</p>
<p>B. What is the deadline, statutory or otherwise (if any) for the completion of an investigation or to make a decision on the merits? Please describe potential suspension or interruption opportunities of this limitation period and the requirements for such rules to apply!</p>	<p>No Limitation period</p>
<p>C. What are the deadlines, statutory or otherwise (if any) to challenge the commencement or completion of an investigation or a decision regarding sanctions? (see also 15A)</p>	<p>No Limitation period</p>

12. Types of decisions

<p>A. List which types of decisions on the merits of the case can be made in cartel cases</p>	<p>The Commission while alongside imposing administrative fines can also</p> <p>(i) annul the agreement;</p>
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<p>under the laws listed under Section 1.</p>	<p>(ii) require the undertaking to amend the agreement or related practice and not to repeat the prohibitions;</p> <p>(iii) to enter into any other agreement or engage in any other practice with a similar object or effect;</p> <p>(iv) remove no competition clauses in contracts;</p> <p>(v) dismantle exclusive distribution agreements and;</p> <p>(vi) Imposing fines to the person obstructing the search and inspection;</p> <p>(vii) Imposing fines to the undertaking.</p> <p>The Commission may terminate the inquiry at any stage and make announcement of its decision after recording the reasons for doing so, if-</p> <p>(a) the complainant does not provide proper cooperation during inquiry;</p> <p>(b) the complainant has failed to provide any supplementary materials to the Commission within the time limit set by the Commission; and</p> <p>(c) if a complaint is struck down under sub-regulation (1) of regulation 20</p> <p>Exemption: The Commission may grant an exemption from section 4, with respect to a particular practice or agreement, if a request for an exemption has been made to it by a party to the agreement or practice and the agreement is one to which section 9 applies.</p> <p>Interim Order: Where, during the course of any proceeding under section 30, the Commission is of opinion that the issuance of a final order in the proceedings is likely to take time and that, in the situation that exists or is likely to emerge, serious or irreparable damage may occur and an interim Order is necessary in the public interest, it may, after giving the undertaking concerned an opportunity of being heard, by order, direct such undertaking to do or refrain from doing or continuing to do any act or thing specified in the order.</p>
<p>B. List any other types of decisions on the merits of the case relevant particularly in hardcore cartel cases under the laws listed under Section 1 (if different from those listed under 12/A).</p>	<p>Section 12 A</p>
<p>C. Can interim measures¹⁰ be ordered during the proceedings in cartel cases? (if different measures for</p>	<p>Yes under Section 32 of Competition Act, 2010</p> <p>Regulation 12 and 25 of (General Enforcement Regulations 2007)</p> <p>The Competition Commission of Pakistan</p>

¹⁰ In some jurisdictions, in cases of urgency due to the risk of serious and irreparable damage to competition, either the investigator or the decision-making agency may order interim measures prior to taking a decision on the merits of the case [e.g.: by ordering the immediate termination of the infringement].

<p>hardcore cartels please describe both¹¹.) Which institution (the investigatory / the decision-making one) is authorised to take such decisions? What are the conditions for taking such a decision?</p>	
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13. Sanctions for procedural breaches (non-compliance with procedural obligations) in the course of investigations

<p>A. Grounds for the imposition of procedural sanctions / fines:</p>	<p>Section 38 of the Ordinance provides that the Commission may impose financial penalties only after giving the undertaking concerned an opportunity of being heard, and it determines that such undertaking—</p> <p>(a) has been found engaged in any activity prohibited under the Ordinance;</p> <p>(b) has failed to comply with an order of the Commission, or Chairman/Members thereof or of an officer of the Commission so authorized in this behalf, made under the Ordinance;</p> <p>(c) has failed to supply a copy of the agreement or any other document and information as required under the Ordinance or requisitioned by the Commission;</p> <p>(d) has furnished any information or made any statement to the Commission which such undertaking knows or has reason to believe to be false or found by the Commission to be inaccurate; or</p> <p>(e) knowingly abuses, interferes with, impedes, imperils, or obstructs the process of the Commission in any manner.</p>
<p>B. Type and nature of the sanction (civil, administrative, criminal, combined; pecuniary or other):</p>	<p>Administrative</p>
<p>C. On whom can procedural sanctions be imposed?</p>	<p>A procedural sanction can be imposed on an undertaking which includes both natural and legal person. The Commission may by order direct any undertaking or any director, officer or employee of an undertaking, to pay by way of penalty such sum as may be specified in the order.</p>
<p>D. Criteria for determining the sanction / fine:</p>	<p>A financial penalty imposed by the Commission under Section 38 of the Ordinance shall be calculated taking into consideration, the following factors:</p> <ul style="list-style-type: none"> • The seriousness of the infringement; • The duration of the infringement; • Aggravating or mitigating factors; and

¹¹ Only for agencies which answered “yes” to question 2.B. above

	<ul style="list-style-type: none"> • Other relevant factors, e.g. deterrent value.
<p>E. Are there maximum and / or minimum sanctions / fines?</p>	<p>The Commission can impose the financial penalties—</p> <p>(a) for a contravention of any provision of Chapter II of the Ordinance, an amount not exceeding fifty million rupees or an amount not exceeding fifteen percent of the annual turnover of the undertaking, as may be decided in the circumstances of the case by the Commission;</p> <p>(b) for non-compliance of any order, notice or requisition of the Commission an amount not exceeding one million rupees, as may be decided in the circumstances of the case by the Commission;</p> <p>(c) for knowingly abusing, interfering, impeding and obstructing the process of the Commission in any manner, an amount not exceeding one million rupees as may be decided in the circumstances of the case by the Commission, and</p> <p>(d) for a continuing violation of the order of the Commission, penalty of a further sum which may extend to one million rupees for every day after the first such violation</p>

14. Sanctions on the merits of the case

<p>A. Type and nature of sanctions in cartel cases (civil, administrative, criminal, combined):</p> <p>On whom can sanctions be imposed?</p>	<p>Administrative</p> <p>Chapter-V, Section 38 of the Competition Act, 2010 states : “The Commission may by order direct any undertaking or any director, officer or employee of an undertaking, to pay by way of penalty such sum as may be specified in the order, if after giving the undertaking an opportunity of being heard...”</p>
<p>B. Criteria for determining the sanction / fine:</p>	<p>A financial penalty is imposed by the Commission under Section 38 of the Ordinance. In imposing the penalty, the gravity of infringement has to be determined by reference to numerous factors, such as circumstances of case, its context and the dissuasive effect of fine. However, it is clarified that there is no binding or exhaustive list of criteria that must be taken into account in every case. (Guideline 1.4 Fining Guidelines)</p> <p>Quantum of penalty factors:</p> <ul style="list-style-type: none"> • The seriousness of the infringement; • The duration of the infringement; • Aggravating or mitigating factors; and • Other relevant factors, e.g. deterrent value.
<p>C. Are there maximum and / or minimum sanctions / fines?</p>	<p>Yes</p>

D. Guideline(s) on calculation of fines:	Guidelines on imposition of Financial Penalties www.cc.gov.pk Language: English
E. Does a challenge to a decision imposing a sanction / fine have an automatic suspensory effect on that sanction / fine? If it is necessary to apply for suspension, what are the criteria?	No, the decision of the Commission stands still until and unless the appeal decision is granted against the impugned order. However, if the Appellate Bench considers that it is necessary as a matter of urgency, can make an order on an interim basis,- (a) suspending in whole or part the effect of any decision which is the subject matter of the appeal proceedings before it; or (b) granting any remedy which the Appellate Bench and then high court would have the power to grant in its final decision.

15. Possibilities of appeal

A. Does your law provide for an appeal against a decision that there has been a violation of a prohibition of cartels? If yes, what are the grounds of appeal, such as questions of law or fact or breaches of procedural requirements?	Yes, the Competition Act, 2010 provides a three-tiered appeal mechanism against the orders of the Competition Commission of Pakistan. (See Section 41-44 Competition Act 2010) The grounds of appeal may be an error in fact or wrong in law, or can relate to any penalty imposed under the Ordinance or rules and regulations made thereunder or even exercise of Commission's discretion. (See Rule 7 The Competition Commission (Appeal) Rules 2007)
B. Before which court or agency should such a challenge be made?	The appeals lie before the: <ol style="list-style-type: none"> 1. Appellate Bench of the Commission: In respect of an order made by any Member or authorized officer of the Commission. 2. The Competition Appellate Tribunal: In respect of orders made by two or more Members of the CCP or by the Appellate Bench 3. Appeal to Supreme Court: Any person aggrieved by an order of the Competition Appellate Tribunal may prefer an appeal to Supreme Court.

16. Private enforcement

A. Are private enforcement of competition law and private damage claims possible in your jurisdiction? If there is no legal provision for private enforcement and damage claims, what are the reasons for it?	NO The law is developing slowly and the relevant practice area is still in process of formation. For damages, the aggrieved party may approach the Civil Court.
B. Laws regulating private enforcement of competition law in your jurisdiction.	N/A
C. Implementing regulation(s) on	N/A

private enforcement (if any):	
D. On what grounds can a private antitrust cause of action arise? / In what types of antitrust matters are private actions available?	N/A
E. What pleading standards must the plaintiff meet to file a stand-alone or follow-on claim? <ul style="list-style-type: none"> • is a finding of infringement by a competition agency required to initiate a private antitrust action in your jurisdiction? What is the effect of a finding of infringement by a competition agency on national courts/tribunals? • if a finding of infringement by competition authority is required, is it also required that decision to be judicially finalised? 	N/A
F. Are private actions available where there has been a criminal conviction in respect of the same matter?	N/A
G. Do immunity or leniency applicants in competition investigations receive any beneficial treatment in follow-on private damages cases?	N/A
H. Name and address of specialised court (if any) where private enforcement claims may be submitted to	N/A
I. Information about class action opportunities	N/A
J. Role of your competition agency in private enforcement actions (if at all)	N/A
K. What is the evidentiary burden on plaintiff to quantify the damages? What evidence is admissible? <ul style="list-style-type: none"> • Role of your competition agency in the damage calculation (if at all) 	N/A

<p>L. Discovery / disclosure issues:</p> <ul style="list-style-type: none">• can plaintiff obtain access to competition authority or prosecutors' files or documents collected during investigations?• is your competition agency obliged to disclose to the court the file of the case (in follow-on cases)?• summary of the rules regulating the disclosure of confidential information by the competition agency to the court• summary of the rules regulating the disclosure of leniency-based information by the competition agency to the court	N/A
<p>M. Passing-on issues:</p> <ul style="list-style-type: none">• how is passing-on regulated / treated in your jurisdiction?• is standing to bring a claim limited to those directly affected or may indirect purchasers bring claims?	N/A