



**International  
Competition  
Network**

**ANTI-CARTEL  
ENFORCEMENT  
TEMPLATE**

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

**Pakistan**

**date of updating: 24/03/2009**

# 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 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 which suffer from cartel activity to get information about the possibilities of lodging a complaint 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.

## 1. Information on the law relating to cartels

<b>A. Law(s) covering cartels:</b>	<b>Competition Ordinance, 2007</b>  Available in English
<b>B. Implementing regulation(s) (if any):</b>	<b>1. Competition Commission (General Enforcement) Regulations, 2007.</b> Available at: <a href="http://www.cc.gov.pk/Downloads/ccp-Rules/General-Enforcement-Regulation.pdf">http://www.cc.gov.pk/Downloads/ccp-Rules/General-Enforcement-Regulation.pdf</a> <b>2. Competition Commission (Leniency) Regulations, 2007.</b> Available at: <a href="http://www.cc.gov.pk/Downloads/ccp-Rules/Leniency%20Regulations.pdf">http://www.cc.gov.pk/Downloads/ccp-Rules/Leniency%20Regulations.pdf</a> <b>3. "The Competition Commission Enquiry (Conduct of Investigating Officers) Rules, 2007".</b> Available at: <a href="http://www.cc.gov.pk/Downloads/ccp-Rules/Enquiry%20(Conduct%20of%20Investigating%20Officer)%20Rules.pdf">http://www.cc.gov.pk/Downloads/ccp-Rules/Enquiry%20(Conduct%20of%20Investigating%20Officer)%20Rules.pdf</a> <b>4. "The Competition Commission (Appeal) Rules, 2007".</b> Available at: <a href="http://www.cc.gov.pk/Downloads/ccp-Rules/Appeal-Rules.pdf">http://www.cc.gov.pk/Downloads/ccp-Rules/Appeal-Rules.pdf</a>
<b>C. Interpretative guideline(s) (if any):</b>	<b>1. Guidelines on "Reward Payment to Informants Scheme".</b> Available at: <a href="http://www.cc.gov.pk/Downloads/Reward%20Payment%20to%20Informants%20Scheme.pdf">http://www.cc.gov.pk/Downloads/Reward%20Payment%20to%20Informants%20Scheme.pdf</a>

	<p>2. <b>Guidelines for Seeking Advice.</b> Available at:  <a href="http://www.cc.gov.pk/Downloads/ccp-Rules/Guidelines%20seeking%20advice-Rule.pdf">http://www.cc.gov.pk/Downloads/ccp-Rules/Guidelines%20seeking%20advice-Rule.pdf</a>  Available in English</p>
<p><b>D. Other relevant materials (if any):</b></p>	<p>Relevant material such as enquiry reports and orders passed are available at the website:  <a href="http://www.cc.gov.pk">www.cc.gov.pk</a>.  Available in English</p>

## 2. Scope and nature of prohibition on cartels

<p><b>A. Does your law or case law define the term “cartel”?</b></p> <p><b>If not, please indicate the term you use instead.</b></p>	<p>No, the term 'cartel' is not used in the law.</p> <p>The term used is 'agreements' which is further elaborated as:</p> <p>Section `4. <b>Prohibited agreements:-</b>(1) 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 of this Ordinance.</p> <p>(2) Such agreements include, but are not limited to__</p> <p>(a) fixing the purchase or selling price or imposing any other restrictive trading conditions with regard to the sale or distribution of any goods or the provision of any service;</p> <p>(b) dividing or sharing of markets for goods or services, whether by territories, by volume of sales or purchases, by type of goods or services sold or by any other means;</p> <p>(c) fixing or setting the quantity of production, distribution or sale with regard to any goods or the manner or means of providing any services; or</p> <p>(d) limiting technical development or investment with regard to the production, distribution or sale of any goods or the provision of any service; or</p> <p>(e) collusive tendering or bidding for sale, purchase or procurement of any goods or service;</p> <p>(f) applying dissimilar condition to equivalent transactions with other trading parties, thereby placing them at a disadvantage; and</p> <p>(g) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.'</p>
--	--

<p><b>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 quotas<sup>1</sup>) and other types of “cartels”?</b></p>	<p>Yes, this distinction is there in the legislation. The prohibited cartel behaviour is as quoted in 'A' above.</p>
<p><b>C. Scope of the prohibition of hardcore cartels:</b></p>	<p>As per Section 2(1)(b) of the Competition Ordinance, the “agreement” includes any arrangement, understanding or practice, whether or not it is in writing or intended to be legally enforceable.</p> <p>However, as per Section 9 of the Competition Ordinance, the Commission may grant individual or block exemption in respect of an agreement, which substantially contributes to __</p> <ul style="list-style-type: none"> <li>i. improving production or distribution;</li> <li>ii. promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit; or</li> <li>iii. the benefits of that clearly outweigh the adverse effect of absence or lessening of competition.</li> </ul>
<p><b>D. Is participation in a hardcore cartel illegal per se? [If the situation differs for civil, administrative and criminal liability, please clarify this.]</b></p>	<p>Participation in cartel is illegal per se except it is established to attract ‘exemption’ provisions (See 2/C).</p>
<p><b>E. Is participation in a hardcore cartel a civil or administrative or criminal offence, or a combination of these?</b></p>	<p>It is an administrative offence. The penalties are imposed under Section 38 of the Law – the penalties fall under civil procedures. However, failure to comply with an order of the Commission shall constitute a criminal offence punishable with imprisonment for a term which may extend to one year or with fine which may extend to twenty five million rupees and the Commission may, in addition to, or in lieu of, the penalties prescribed in this Act, initiate proceedings in a Court of competent jurisdiction, Section 38 (6).</p>

### 3. Investigating institution(s)

<p><b>A. Name of the agency, which investigates cartels:</b></p>	<p>Competition Commission of Pakistan (CCP)</p>
--	---

<sup>1</sup> 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.

<b>B. Contact details of the agency:</b>	<p>Competition Commission of Pakistan  4-C, Shams Gate, Diplomatic Enclave,  G-5, Islamabad  P h.:+92-51-9247530  Fax :+92-51-9247547  Email: <a href="mailto:info@cc.gov.pk">info@cc.gov.pk</a>  <a href="http://www.cc.gov.pk">http://www.cc.gov.pk</a></p> <p>Available in English</p>
<b>C. Information point for potential complainants:</b>	<p>Email: <a href="mailto:info@cc.gov.pk">info@cc.gov.pk</a></p>
<b>D. Contact point where complaints can be lodged:</b>	<p>Complaints can be addressed to:</p> <p><b>Mr. Abdul Ghaffar,</b>  Member (Cartels)  E.mail: <a href="mailto:aghaffar@cc.gov.pk">aghaffar@cc.gov.pk</a>  Tel: +92-51-9247536  Fax: +92-51-9247547</p> <p>With a copy marked to:</p> <p><b>Mr. Khalid Aziz Mirza</b>  Chairman  E.mail: <a href="mailto:kmiza@cc.gov.pk">kmiza@cc.gov.pk</a>  Tel: +92-51-9247545  Fax: +92-51-9247559</p>
<b>E. Are there other authorities which may assist the investigating agency? If yes, please name the authorities and the type of assistance they provide.</b>	<p>As per Section 51, the Commission may seek the assistance of any person, authority or agency for the performance of its functions under Competition Ordinance.</p>

#### 4. Decision-making institution(s)<sup>2</sup> [to be filled in only if this is different from the investigating agency]

<b>A. Name of the agency making decisions in cartel cases:</b>	--
<b>B. Contact details of the agency:</b>	--
<b>C. Contact point for questions and</b>	--

<sup>2</sup> Meaning: institution taking a decision on the merits of the case (e.g. prohibition decision, imposition of fine, etc.)

<b>consultations:</b>	
<b>D. Describe the role of the investigating agency in the process leading to the sanctioning of the cartel conduct.</b>	--
<b>E. What is the role of the investigating agency if cartel cases belong under criminal proceedings?</b>	--

## 5. Handling complaints and initiation of proceedings

<b>A. Basis for initiating investigations in cartel cases:</b>	Information from consumers or businesses, newspapers items, reference from government, complaint may trigger CCP's action or an action may be taken on suo moto basis (in its own motion)
<b>B. Are complaints required to be made in a specific form (e.g. by phone, in writing, on a form, etc.)?</b>	<p>There is no specific form. A complaint may be lodged using fax, email or through post.</p> <p>Contents of complaint and reference are provided in Section 17 and 18 of General Enforcement Regulations, 2007.</p> <p>Available at:  <a href="http://www.cc.gov.pk/Downloads/ccp-Rules/General-Enforcement-Regulation.pdf">http://www.cc.gov.pk/Downloads/ccp-Rules/General-Enforcement-Regulation.pdf</a></p>
<b>C. Legal requirements for lodging a complaint against a cartel: [e.g. is legitimate interest required, or is standing to make a complaint limited to certain categories of complainant?]</b>	As per General Enforcement Regulations, 2007, a "complainant" means an undertaking or a registered association of consumers filing a complaint or the Federal Government filing a reference under regulation 17, see 5/B above.
<b>D. Is the investigating agency obliged to take action on each complaint that it receives or does it have discretion in this respect? [Please elaborate.]</b>	<p>All complaints undergo preliminary screening, an action is initiated if so required under the Law.</p> <p>The Commission is entitled to reject a complaint if each of the following conditions are met: the complaint is frivolous, vexatious, it is based on insufficient facts and it is without any prima facie evidence.</p>
<b>E. If the agency intends not to pursue a complaint, is it required to adopt a decision addressed to the complainant explaining its reasons?</b>	There is no legal requirement to inform the complainant. However, to maintain good office procedures, the complainant is informed about the outcome and the reasons.

<p><b>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?</b></p>	<p>No, there is no time limit described in the Law. However, an attempt is made to initiate and conclude actions as soon as possible.</p>
--	---

## 6. Leniency policy<sup>3</sup>

<p><b>A. What is the official name of your leniency policy (if any)?</b></p>	<p>Section 39 of the Competition Ordinance explains the leniency provisions.</p> <p>It is further covered in:</p> <p><b>Competition Commission (Leniency) Regulations, 2007.</b> Available at:</p> <p><a href="http://www.cc.gov.pk/Downloads/ccp-Rules/Leniency%20Regulations.pdf">http://www.cc.gov.pk/Downloads/ccp-Rules/Leniency%20Regulations.pdf</a></p>
<p><b>B. Does your jurisdiction offer full leniency as well as partial leniency (i.e. reduction in the sanction / fine), depending on the case?</b></p>	<p>Yes.</p>
<p><b>C. Who is eligible for full leniency?</b></p>	<p>The Commission may grant an undertaking the benefit of total immunity from financial penalties if the following conditions are satisfied:</p> <ul style="list-style-type: none"> <li>(i) The undertaking is the first to provide the Commission with evidence of any activity violating Chapter II of the Ordinance; provided that the Commission does not already have sufficient information to establish the existence of the alleged activity.</li> <li>(ii) The undertaking: <ul style="list-style-type: none"> <li>(a) provides the Commission with all the information, documents and evidence available to it regarding the prohibited activity;</li> <li>(b) maintains continuous and complete cooperation throughout the proceedings and until the conclusion of any action by the Commission arising as a result of the proceedings;</li> <li>(c) refrains from further participation in the alleged activity from the time of its disclosure to the Commission;</li> <li>(d) must not have taken any steps to coerce another undertaking to take part in any of the activities prohibited under</li> </ul> </li> </ul>

<sup>3</sup> 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.

	the Ordinance.
<p><b>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?</b></p> <p><b>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?</b></p>	<p>Yes.</p> <p>It depends on facts of the case. Any reduction in the level of the financial penalty is discretionary. In exercising this discretion, the Commission will take into account:</p> <p>(a) the stage at which the undertaking comes forward;  (b) the evidence already in the Commission's possession; and  (c) the quality of the information provided by the undertaking.</p>
<p><b>E. Who can be a beneficiary of the leniency program (individual / businesses)?</b></p>	Both.
<p><b>F. What are the conditions of availability of full leniency:</b></p>	Kindly see 6/C.
<p><b>G. What are the conditions of availability of partial leniency (such as reduction of sanction / fine / imprisonment):</b></p>	<p><b>Reduction of upto 50 per cent in the level of financial penalties.-</b> (1) Undertakings which provide evidence of any of the prohibited activities before the Commission issues a written notice of its intention to make a decision that relevant provisions of the Ordinance contained in Chapter 3</p>
<p><b>H. Obligations for the beneficiary after the leniency application has been accepted:</b></p>	<p>The applicant is required to provide the Commission with all the evidence relating to the suspected infringement available to it at the time of the submission. Alternatively, the undertaking may present a list of the evidence that it proposes to disclose at a specified later date and provide a description of the nature and contents of this evidence. It must contain the details about the type and duration of the infringement, the relevant product and geographical markets affected, and the identity of those involved.</p>



<p><b>I. Are there formal requirements to make a leniency application?</b></p>	<p>Yes. Applications for leniency may be made in writing. Initial contact can be made by telephone.</p> <p>Initial contact with the Commission may be made with the identity not to be disclosed as part of the record. However, in the leniency application, all the relevant information shall be provided and the undertaking's name must also be given to the Commission.</p>
<p><b>J. Are there distinct procedural steps within the leniency program?</b></p>	<p>No.</p>
<p><b>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?</b></p>	<p>After the initial contact, Commission shall set a time limit, a maximum of eight weeks for the submission of the application for leniency. After examination of evidence in a reasonable time, the decision about the eligibility will be conveyed to the applicant.</p>
<p><b>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?</b></p>	<p>For legal basis, kindly see Section 39 of the Competition Ordinance that explains the leniency provisions.</p> <p>It is further covered in: Competition Commission (Leniency) Regulations, 2007. Available at: <a href="http://www.cc.gov.pk/Downloads/ccp-Rules/Leniency%20Regulations.pdf">http://www.cc.gov.pk/Downloads/ccp-Rules/Leniency%20Regulations.pdf</a></p> <p>Yes, an application has to be accepted formally. The authorised officers decide about leniency applications.</p>
<p><b>M. Does your legislation have a marker system? If yes, please describe it.</b></p>	<p>--</p>
<p><b>N. Does the system provide for any extra credit<sup>4</sup> for disclosing additional violations?</b></p>	<p>It depends on facts of the case.</p>
<p><b>O. Is the agency required to keep the identity of the beneficiary confidential? If yes, please elaborate.</b></p>	<p>The Commission may endeavour, to the extent that is consistent with its obligations to disclose or exchange information, to keep the identity of undertakings coming forward with evidence of any of the prohibited activities, confidential throughout the course of proceedings, until the Commission issues a written notice of its intention to make a decision that relevant provisions of the Ordinance have been infringed.</p>
<p><b>P. Is there a possibility of appealing an agency's decision rejecting a leniency application?</b></p>	<p>--</p>
<p><b>Q. Contact point where a</b></p>	<p>Applications can be lodged addressing:</p>

<sup>4</sup> 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.

<p>leniency application can be lodged:</p>	<p><b>Mr. Abdul Ghaffar,</b> Member (Cartels) E.mail: <a href="mailto:aghaffar@cc.gov.pk">aghaffar@cc.gov.pk</a> Tel: +92-51-9247536 Fax: +92-51-9247547</p> <p>With a copy marked to:</p> <p><b>Mr. Khalid Aziz Mirza</b> Chairman E.mail: <a href="mailto:kmiza@cc.gov.pk">kmiza@cc.gov.pk</a> Tel: +92-51-9247545 Fax: +92-51-9247559</p>
<p><b>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?</b></p>	<p>Under Section 39 (3), the Commission may, if it is satisfied that any undertaking which has been granted lenient treatment 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.</p>
<p><b>S. Does your policy allow for “affirmative leniency”, that is the possibility of the agency approaching potential leniency applicants?</b></p>	<p>--</p>

## 7. Investigative powers of the enforcing institution(s)<sup>5</sup>

<p><b>A. Briefly describe the investigative measures available to the enforcing agency such as requests for information, searches/raids<sup>6</sup>, electronic or computer searches, expert opinion, etc. and indicate whether such measures requires a court warrant.</b></p>	<p>Investigative measures available to the CCP include requests for information, searches/inspection, electronic or computer searches, expert opinion, etc. Such measures require authorization from the CCP.</p> <p>CCP can ask any agency or persons for assistance to carry out its functions.</p>
<p><b>B. Can private locations, such as residences, automobiles, briefcases and persons be searched, raided or</b></p>	<p>As per Section 34, CCP’s authorized officer can enter and search any premises.</p>

<sup>5</sup> “Enforcing institutions” may mean either the investigating or the decision-making institution or both.

<sup>6</sup> “Searches/raids” means all types of search, raid or inspection measures.

inspected? Does this require authorisation by a court?	No.
C. 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)?	--
D. Have there been significant legal challenges to your use of investigative measures authorized by the courts? If yes, please briefly describe them.	Not applicable

## 8. Procedural rights of businesses / individuals

A. Key rights of defence in cartel cases:	Yes, businesses/ individuals are provided with key defence rights e.g., statement of allegations, opportunities of being heard and to present evidence and arguments in their defence. This is contained in Section 30 'Proceedings in cases of contravention'
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?	<p><b>Relevant legal provision about confidentiality is:</b></p> <p><b>48. Information to be treated as confidential.</b>—(1) Where any information furnished to the Commission has been identified as confidential, but no statement in writing has been given to explain why the information is confidential, the Commission may give notice to the person furnishing the information to provide the statement in writing within such time limit as the Commission considers appropriate.</p> <p>(2) Where a statement in writing has been given to the Commission to explain why any information furnished to the Commission is confidential, the Commission may, in its discretion, require and give notice to the person furnishing the information to provide written clarification within such time limit as the Commission considers appropriate.</p> <p>(3) Where the person furnishing the information fails to provide to the Commission with the statement in writing mentioned in sub-regulation (1) or with the written clarification mentioned in sub-regulation (2), as the case may be, within the time limit specified by the Commission, the information furnished will be deemed as non confidential information.</p>

	<p>(4) Where the Commission proposes to disclose information which has been furnished to the Commission and identified as confidential, the Commission may —</p> <p>(a) inform the person who furnished the information or the person from whom the information originated, of the Commission’s proposed action; and</p> <p>(b) give that person a reasonable opportunity to make representation to the Commission on the Commission’s proposed action.</p>
--	---

## 9. Limitation periods and deadlines

<p><b>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 in the merits of the case must be made?</b></p>	<p>The legislation does not provide for time limits or deadlines.</p>
<p><b>B. What is the deadline, statutory or otherwise (if any) for the completion of an investigation or to make a decision in the merits?</b></p>	<p>The legislation does not provide for time limits or deadlines.</p>
<p><b>C. What are the deadlines, statutory or otherwise (if any) to challenge the commencement or completion of an investigation or a decision regarding sanctions?</b></p>	<p><b>Relevant Section 41 is quoted below:</b></p> <p><b>Appeal to the Appellate Bench of the Commission.-</b> (1) An appeal shall lie to an Appellate Bench of the Commission in respect of an order made by any Member or authorized officer of the Commission. The person aggrieved by such order may, <b>within thirty days</b> of the passing of the order submit an appeal, to the Appellate Bench of the Commission.</p> <p>(2) The Commission shall constitute Appellate Benches comprising not less than two Members to hear appeals under sub-section (1).</p> <p>(3) The decisions of the Appellate Bench shall be made unanimously or by a majority of votes if the Appellate Bench comprises of more than two members. In the event of a split verdict, the original order appealed against shall hold and shall have effect as the final order of the Commission.</p> <p>(4) No Member shall be included in an Appellate Bench who has participated or been involved in the decision being appealed against.</p> <p>(5) The form in which an appeal is to be filed and the fees to be paid therefore and other related matters shall be prescribed by rules.</p>

	<p><b>42. Appeal to the Court.</b> (1) Any person aggrieved by an order of the Commission comprising two or more Members or of the Appellate Bench of the Commission may <b>within sixty days</b> of the communication of the order, prefer appeal to the Supreme Court.</p>
--	--

## 10. Types of decisions

<p><b>A. Please list which types of decisions on the merits of the case can be made in cartel cases under the laws listed under Section 1.</b></p>	<p>As per Section 31(b), the CCP may in case of prohibited agreements, annul the agreement or require the undertaking concerned to amend the agreement or related practice and not to repeat the prohibitions specified in section 4 or to enter into any other agreement or engage in any other practice with a similar object or effect.</p>
<p><b>B. Please list which types of decisions on the merits of the case can be made in hardcore cartel cases under the laws listed under Section 1 (if different from those listed under 10/A).</b></p>	<p>Same as in Section 10/A.</p>
<p><b>C. Can interim measures<sup>7</sup> be ordered during the proceedings in cartel cases? (if different measures for hardcore cartels please describe both<sup>8</sup>.) Which institution (the investigatory / the decision-making one) is authorised to take such decisions? What are the conditions for taking such a decision?</b></p>	<p>Yes, interim measures can also be taken as explained below:</p> <p>As per Section 32, CCP has '<b>Power to issue interim orders.-</b></p> <p>(1) Where, during the course of any proceeding under section 30, the Commission is of opinion that the issue 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>(2) An order made under sub-section (1) may, at any time, be reviewed, modified or cancelled by the Commission and, unless so cancelled, shall remain in force for such period as may be specified therein but not beyond the date of the final order made under section 31.</p>

<sup>7</sup> 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].

<sup>8</sup> Only for agencies which answered "yes" to question 2.C. above

## 11. Sanctions for procedural breaches (non-compliance with procedural obligations)<sup>9</sup>

<p><b>A. Grounds for the imposition of procedural sanctions / fines:</b></p>	<p>As per Section 38, penalty can be imposed if it is determined that the undertaking:</p> <p>(a) has been found engaged in any activity prohibited under this Act;</p> <p>(b) has failed to comply with an order of the Commission made under this Act;</p> <p>(c) has failed to supply a copy of the agreement or any other documents and information as required under this Act 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>B. Type and nature of the sanction (civil, administrative, criminal, combined):</b></p>	<p>Civil and administrative combined.</p>
<p><b>C. On whom can procedural sanctions be imposed?</b></p>	<p>The fines/ sanctions are imposed on undertakings, defined as “any natural or legal person, governmental body including a regulatory authority, body corporate, partnership, association; trust or other entity in any way engaged, directly or indirectly, in the production, supply, distribution of goods or provision or control of services and shall include an association of undertakings.</p>
<p><b>D. Criteria for determining the sanction / fine:</b></p>	<p>See 11/A</p>
<p><b>E. Are there maximum and / or minimum sanctions / fines?</b></p>	<p>Yes, as explained below:</p> <ol style="list-style-type: none"> <li>1. 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.</li> <li>2. For knowingly abuses, interferes with, impedes, imperils, or obstructs 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.</li> </ol>

<sup>9</sup> In some jurisdictions non-compliance with procedural obligations (e.g. late provision of requested information, false or incomplete provision of information, lack of notice, lack of disclosure, obstruction of justice, destruction of evidence, challenging the validity of documents authorizing investigative measures, etc.) can be sanctioned.

## 12. Sanctions on the merits of the case

<b>A. Type and nature of sanctions in cartel cases (civil, administrative, criminal, combined):</b>  <b>On whom can sanctions be imposed?</b>	Kindly see Section 2/E.  Kindly see Section 11/C.
<b>B. Criteria for determining the sanction / fine:</b>	If it is determined that the undertaking been involved in a contravention relating to cartels/ agreements. See 2/A.
<b>C. Are there maximum and / or minimum sanctions / fines?</b>	For a contravention relating to cartels/ agreements, 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.
<b>D. Guideline(s) on calculation of fines:</b>	Penalty is calculated on the basis of facts of the case and hence may differ on case by case basis.
<b>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?</b>	This relates to appeals. Kindly see 9/C.

## 13. Possibilities of appeal

<b>A. Does your law provide for an appeal from 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?</b>	Yes, the law provides for appeal against a decision on questions of law or fact or breaches of procedural requirements. Kindly see 9/C for details.
<b>B. Before which court or agency should such a challenge be made? [if the answer to question 13/A is affirmative]</b>	An appeal can be filed before Appellate Bench of the Commission and then before Supreme Court of Pakistan. For details see 9/C.

---