



**Competition
Commission of Pakistan**

Creating a level playing field

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CC "all other things being equal" **ETERIS P** **ARIBUS**

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CCP Chairman Represents

Pakistan at Global Forum on Competition

Chairman CCP Dr. Kabir Ahmed Sidhu participated in the OECD's Global Forum on December 7-8, 2023 in Paris. The Forum, an annual event, brought together heads of competition authorities from over 110 countries worldwide.

Chairman Sidhu also acted as a moderator in the breakout session on "Use of Economic Evidence in Cartel Cases on how can competition authorities effectively communicate economic evidence in court and to non-experts." The other speakers in the session were Cristina Camacho, Head of Cabinet and Head of International Relations, Portuguese Competition Authority,

and John Davies, Member, the Competition Appeal Tribunal, United Kingdom.

In his opening remarks, Chairman Sidhu highlighted the CCP's shift from traditional evidence-gathering methods, such as dawn raids, to a more proactive approach. The Commission has launched a new Market Intelligence Unit (MIU) to leverage advanced technology and data analytics. The MIU aims to assess market data effectively, identifying collusive practices and enhancing the Commission's enforcement capabilities.

He emphasized that given the increased market concentration and higher vertical integration in Pakistan's markets, establishing a dedicated department for data gathering and analysis was necessary. The creation of this department will effectively address challenges in gathering cartel evidence.



CCP Fully Functional

With Chairman and Members appointments

The Federal Government appointed four new Members to the CCP on July 17, 2023. The new Members, Dr. Kabir Ahmed Sidhu, Mr. Salman Amin, Mr. Abdul Rashid Sheikh, and Capt. (Retd) Saeed Ahmad Nawaz, bring diverse expertise to CCP.

Dr. Kabir Ahmed Sidhu was subsequently nominated as the Chairman of CCP. He took charge following the issuance of a notification by the Federal Government on August 8, 2023.

The CCP had been dysfunctional for over a year, operating with only one Member since April 2022. These appointments have restored the Commission to full functionality, crucial for exercising its powers like initiating enquiries and passing orders. The appointments marked a turning point for the CCP, promising a renewed focus on its mandate to safeguard fair competition and consumer interests.



DR. KABIR AHMED SIDHU
Chairman

Dr. Sidhu completed his bachelor's in law, LLM in Banking, Insurance and International Business law and PhD from the University of Manchester. He also attained postgraduate diploma in Civil litigation from Manchester Law Society and certificates in mortgage and financial advice from London Institute of Banking and Finance. His doctoral thesis focused on Regulation of Market Abuse and manipulation. Dr. Sidhu brings a wealth of knowledge and experience to the Commission in regulation of market abuse, manipulation, and public policy.

He has more than 20 years of experience in various sectors which includes working for insurance companies, law firms, compliance departments of financial institutions in UK and various law firms and government ministries in

Pakistan. Prior to this position, he was working as a Senior Legal Consultant in Ministry of Law.

He has also been a research associate with leading academics in UK universities and has taught at Manchester University.

Recognising the importance of effective competition in Pakistani markets, his vision is to ensure that Competition Commission plays its role as a strong regulator to facilitate the smooth interplay of market forces leading to uninterrupted natural equilibrium, devoid of exploitation, distortion, market abuse and harm. He is a staunch advocate of revising legal, regulatory frameworks in every sector of the economy to facilitate foreign direct investment.



SALMAN AMIN
Member

Mr. Salman Amin, is a Fellow CA and Fellow ACCA (UK), brings a wealth of expertise to the Commission. His regulatory background, including roles in NEPRA and dealing with mergers and acquisitions in the Privatisation Commission, underscores his experience in the regulatory affairs, due diligence, and dealing matters with high economic footprints. In OGDCL, he led Commercial, Audit, and Strategy Planning departments of the national oil company.

With a diverse career, he served as a Financial Economist at the Ministry of Finance and worked with international organizations like DFID and CIDA. Being a seasoned professional,

he is a certified Director and has served to various boards, inter-ministerial committees, and international forums.

Notably, Mr. Amin has a publication on the Power Sector outlook in Pakistan (2018) and presented a paper on behalf of Pakistan at international conference at the ADB Headquarters in Manila in 2017. Recognized for his exceptional contributions, he received ACCA's Exceptional Public Value Award in February 2019.



MAZHAR ALAM MIANKHEL
Justice (Retd)

Competition Appellate Tribunal Functional After the Appointment of Justice (Retd) Mazhar Alam Miankhel as its Chairman

On November 29, 2023, the Federal Government appointed Justice (Retd) Mazhar Alam Miankhel, former Chief Justice of Peshawar High Court and former judge of the Supreme Court, as the Chairman of the Competition Appellate Tribunal for a term of three years. Justice (Retd) Miankhel is known for his judicial standing.

CCP welcomed the news and hoped that a functional Competition Appellate Tribunal will enable swifter decisions in the pending cases. The delays in deciding upon appeals had an adverse impact on implementing essential CCP orders

across various sectors, including sugar, cement, fertilizer, telecom, banks, and consumer goods. The undertakings usually take advantage of a dysfunctional Appellate Tribunal by seeking alternate remedy from High Courts. The number of such petitions in High Courts across the country is 140.

Notably, the Tribunal will be hearing the sugar cartel case, wherein the Commission has imposed a substantial Rs. 44 billion penalty on the Pakistan Sugar Mills Association and its member sugar mills.



ABDUL RASHID SHEIKH
Member

Mr. Abdul Rashid Sheikh is an accomplished professional with a Master's Degree in Public Administration from Cornell University (2008) under a Fulbright Scholarship and an MBA from IBA, Karachi (2001).

In his service career spanning over 37-years, he has excelled in managing Customs, Sales Tax, and Federal Excise departments, specializing in tariff policy analysis, enforcement, audits, intelligence & investigations, and quasi-judicial proceedings. Notably, he led a team engaging with the World Bank for reforms during 2017-18 and 2018-19. Mr. Sheikh has conducted and overseen many high-profile international trade related

investigations and contributed to successful planning and execution of modules for 'process reengineering' and 'enhanced automation' during his career in Pakistan Customs.

His initiatives aimed at client facilitation and transparency resulted in revenue optimization and a reduced cost of doing business, showcasing his commitment to efficiency and innovation.



SAEED AHMAD NAWAZ
Member

Mr. Saeed Ahmad Nawaz, a graduate (MBA Finance) from the University of the Punjab, is also the winner of the highly competitive Hubert H. Humphrey Fellowship (2002-03) in the field of finance and economics at Boston University, USA. After securing the World Bank-Government of Pakistan-sponsored Professional Development Program Award (2006-07), he completed his MSc. in Local Economic Development from the London School of Economics, UK.

Mr. Nawaz commenced his professional journey as a commissioned officer in the Pakistan Army and was then inducted into the District Management Group. He has served in various capacities for the Governments of Punjab and KPK, from sub-divisions to provincial

departments. His diverse roles included team leadership and staff officer positions.

At the National School of Public Policy, he served as Directing Staff, Chief Instructor, and Head of Administration (Director General). He travelled across the globe as Head of National Management College Delegations during their Foreign Study Tours. At the Federal Secretariat, he successfully handled critical issues, including COVID-19-related relief measures, industrial policy, corporate governance, poverty alleviation, and social security. In his final role as a civil servant, he served as MD, PASSCO.

CCP Remains Vigilant in Fulfilling its Statutory Role Amid Sugar Crisis

In August and September 2023, a sugar crisis causing price hikes and shortages affected consumers. The Commission promptly started active monitoring of the situation, ready to take necessary enforcement and policy actions if any signs of anti-competitive activities were detected.

It is important to highlight that the Commission carried out dawn raids on the Pakistan Sugar Mills Association (PSMA) in 2021 and imposed a substantial cumulative penalty of PKR. 44 billion on PSMA and its member sugar mills for cartelization.

However, the Commission's decision was appealed against in the High Courts of Sindh and Punjab and in the Competition Appellate Tribunal (CAT), and the recovery of penalties has been stayed. A total of 127 petitions have been filed against the order.

Supreme Court Upholds CCP's Enquiry & Information Gathering Powers

In September 2023, the Supreme Court of Pakistan, while announcing its judgment in the Dalda case, unanimously upheld the statutory powers of the Commission. The powers relate to gathering of information and conducting of enquiries.

A three-member bench comprising former Chief Justice Umar Ata Bandial, Justice Mansoor Ali Shah, and Justice Ayesha A. Malik passed the judgment and declared that there is no restriction on CCP's general regulatory powers to call for

information under Section 36 of the Act.

It has also stated a clear obligation on undertakings to fully comply with CCP's directives for the provision of information. The apex court has categorically declared that CCP is not obligated to provide detailed reasoning before commencing an enquiry. The court stated that initiation of an enquiry under Section 37 of the Act is not an adverse action. It is merely a fact-finding exercise distinct from show cause proceedings under Section 30 of the Act.

The Supreme Court landmark decision has paved the way for the Commission to reinstate investigations in the ghee and cooking oil sector thus, strengthened its authority to initiate enquiries against cartels which is important for creating a competitive investment climate.



CCP to Construct a State-of-the-Art Headquarter in Capital

The Design Vetting Committee of the Capital Development Authority (CDA) granted approval for the building plan of the Commission, marking a new era towards progression.

The cost of rent, utilities, and staff hire has risen with inflation. The construction of new building will enable the Commission to expand its operations within its current budget across other cities. In 2018, the CDA allocated plots spanning 5.5 kanals in Sector G-10/4, Mauve Area, Islamabad. The building plan encountered roadblocks delaying the entire project for the last two years.

The proposed building plan reflects a forward-thinking design, encompassing state-of-the-art office spaces. This includes a dedicated hearing room, an information resource centre, and

a creche facility tailored for female employees—an embodiment of CCP's commitment to fostering a modern and inclusive workspace.

Under the current management, focused efforts are underway to address outstanding challenges faced by the organization. This includes the resolution of pending court cases, recovery of penalties, the streamlining of various procedural aspects, and, significantly, creating a level playing field for all businesses leading to prosperity across the country.

CCP's new headquarters will also prioritize environmental sustainability. The building design incorporates eco-friendly features and technologies aimed at reducing its carbon footprint. From energy-efficient lighting systems to water-saving fixtures, the construction project emphasizes the importance of environmental responsibility.

Complete Paradigm Shift from Reactive to Proactive Enforcement

CCP Launches Market Intelligence Unit



On October 30, 2023, the Commission launched a new Market Intelligence Unit (MIU). Its objective was to create advanced technological and data analytical capabilities to assess the market data to identify collusive practices. This is a complete paradigm shift from the previous approach of reactive enforcement to proactive enforcement.

The Commission has already signed an MOU with the Urban Unit in Punjab. Data on all

essential commodities from the Pakistan Bureau of Statistics will also be attained. The Commission will further obtain data on all essential products, and various sectors of the economy to identify collusive practices and cartels.

The history of market abuse is as old as the markets itself. Unscrupulous players have become sophisticated and leave no smoking guns. In line with the international approach, MIU will gather economic data.



MIU will monitor various sectors and industries through market surveys and consumer feedback. It will monitor the supply and demand side to identify distortion in natural equilibrium. It will use various software, tools, econometrics models, and price movement analysis to curb market abuse, collusion, and cartels in the economy.

CCP and PBS Collaboration to Ensure Data Based Enquiries

CCP Chairman Dr. Kabir Ahmed Sidhu, accompanied by Member MIU Saeed Ahmad Nawaz and DG Admin Dr. Ikram Ul Haq paid a visit to the Pakistan Bureau of Statistics. Dr Naeem Uz Zafar, Chief Statistician, and Muhammad Sarwar Gondal, Member PBS received the CCP delegation.

During the meeting, Dr. Sidhu shared information about the newly launched Market Intelligence Unit (MIU) within CCP, emphasizing its shift from reactive to proactive enforcement of the law. The discussions centered on potential collaboration for sharing market data, including commodities prices, to enhance market insights.

Chief Statistician Dr. Zafar praised CCP's

efforts in fostering a competitive business environment and expressed PBS's support in creating a business-friendly atmosphere for growth.



Granting Approvals to MERGERS & ACQUISITIONS

The Commission is mandated by statute to evaluate mergers and acquisitions. Transactions meeting the threshold outlined in the CCP Mergers Regulations undergo a review process. Typically, transactions are approved after a Phase I Review if there are no competition concerns. However, if a transaction results in the strengthening or creation of a dominant position post-merger, the Commission initiates a Phase II Review. During the period under review, the Commission approved mergers in key sectors of the economy.



Healthcare Sector

CCP approved a merger application filed by Shifa International Hospitals Limited to acquire SIHT Private Limited from Shifa Foundation. It was found that there was no overlap in the activities of the merger parties in the relevant market, therefore, post-transaction, market conditions will remain unchanged. The proposed transaction raised no competition concerns and secured the Commission's approval.



Non-life Insurance Sector

CCP approved the merger of TPL Insurance Limited (TPLI) with New Hampshire Insurance Company – Pakistan Branch (NHICP) after completing all formalities. NHICP is a Pakistan-based branch of New Hampshire Insurance Company incorporated under the laws of the United States of America. The branch was providing general insurance services, however, its operations ceased in 2016.



Energy Sector

CCP processed two mergers, approving the 100% acquisition of Tabeer Energy (Private) Limited and Tabeer Energy Marketing (Private) Limited (TEMPL) by the UAE-based Bison Energy FZCO.

As a result of the merger transactions, Bison Energy FZCO has acquired 100% shareholding of Tabeer Energy (Private) Limited and Tabeer Energy Marketing (Private) Limited from Diamond Gas International Japan Co. Limited. The transaction will result in foreign direct investment in Pakistan and help alleviate gas shortage.



Beverages Sector

CCP granted approval to the acquisition of Coca-Cola (Pakistan) under phase-1 review. Coca-Cola İçecek (Turkey) acquired 49.67 percent shareholding of Coca-Cola (Pakistan) through CCI International Holand (one of its subsidiaries) from Atlantic Industries. The transaction involves total consideration of USD 300 million.

After this transaction, Coca-Cola Turkey will own majority of shareholding in Coca-Cola (Pakistan) with management. This is significant vote of confidence that Pakistani economy has great potential for above-average returns on their capital for international investors.



Stock Market

CCP granted approval for the merger of a listed company, First UDL Modaraba, with a public unlisted company, UDL International Limited. The merger approval will lead to the listing of the previously unlisted company on the Pakistan Stock Exchange.

The merger reflects the growing confidence of the corporate sector in the Pakistan Stock Exchange. It also comes at a time when the KSE-100 index surpasses the 64,000-point mark.

Established under the Modaraba Companies

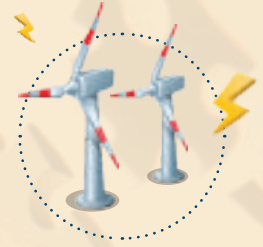


Consumer Market

CCP received an application for acquisition from QistBazaar (Private) Limited for the subscription of 7.2% of its shareholding by Bank Alfalah Limited.

QistBazaar sells white goods, electronics, and home goods online on the “buy now pay later” model. In the current inflationary situation in the economy, it is a major facility for those who are struggling financially. The purchase of shares by Bank Alfalah will provide the necessary financing for Qistbazaar to provide better service and improve its infrastructure. It will also open a new online market for consumers enhancing competition with retailers across the region. This will improve services to the consumers.

CCP approved the entry of a financial institution into the consumer market of “Buy Now Pay Later Service”.



Renewable Energy Sector

China based CNNP Rich Energy Co. Ltd. strategically invested in Pakistan's renewable energy sector through its wholly owned subsidiary CRE International Co., Limited.

The Commission granted approval for the acquisition of Super Success Investments Limited (SSIL) by CRE International Co., Limited. CRE is the wholly owned subsidiary of CNNP Rich Energy Co. Limited located in Honk Kong. Whereas Super Success Investments Limited (SSIL) is based in Mauritius. SSIL owns 100 percent shareholding of UEP Wind Power, a private company operating and maintaining a 99MW wind-powered electric generation facility in Pakistan. CRE has acquired SSIL and thus indirectly acquired UEP Wind Power Pakistan.

This transaction serves as a testament to the growing interest of foreign investors in Pakistan's renewable energy sector. While the transaction indirectly reflects a substantial foreign investment in the country's energy landscape, it also underscores the potential for collaborative advancements in the renewable energy domain.

and Modaraba (Floatation and Control) Ordinance, 1980, First UDL Modaraba has a registered office located in Karachi. UDL International Limited, also headquartered in Karachi, engages in diverse activities such as sale, purchase, import and export, general trading, and the supply of general orders and commodity products.

After merging, UDLIL shall transfer the Musharika portfolio of the FUDLM to its wholly owned subsidiary, UDL Financial Services Limited (UDLFSL). The phase 1 review of the

merger application determined that the proposed transaction will not result in the dominance of UDL International Limited in the relevant market post-transaction. Therefore, the merger was officially authorized.

This merger marks a positive step in the corporate landscape and is poised to contribute to the continued growth and stability of the entities involved.

INTERNATIONAL Affairs

Visit of Dr. Gan Lin, China's State Minister for Market Regulation Authority to CCP



A delegation from China's State Administration for Market Regulation (SAMR) led by Vice Minister Ms. Gan Lin visited the Commission for promoting bilateral relations. Both sides had a fruitful discussion on the current state of markets and regulations in China and Pakistan. They decided to collaborate for providing training and capacity building, exchange of knowledge to detect cartels and engage in research projects to enhance efficiency of the regulatory bodies.

China is Pakistan's all-weather strategic partner. CPEC has brought about total of

\$25.4B direct investment in Pakistan, billions of rupees in revenue & taxes and more than 192,000 direct jobs. It is a game-changer since it benefits the entire South Asia by enhancing regional connectivity and economic development.

China has lifted population of approx. 500 million out of sheer poverty. This remarkable accomplishment has only come about by organizing their markets. China's SAMR has played a vital role in achieving this task.

Chairman Dr. Kabir Ahmed Sidhu said that the Commission can learn a great deal

from Chinese example. The Commission is also mandated to remove obstacles and impediments from all sectors of economy, curb market abuse manipulation and collusive behaviour.

He further added that from nationalization to privatization, Pakistani markets are fragmented and characterized by dominance of few players. China has been very successful in controlling Cartels and its State-Owned Entities.

Dr. Gan Lin invited Dr. Kabir Ahmed Sidhu and his colleagues to China's International Competition forum.

Virtual Meeting with Indonesian Embassy and Competition Authority

Recognizing the significance of potential collaboration between the competition agencies of Indonesia and Pakistan, the Commission held a virtual meeting with Indonesian counterpart.

Chairman Dr. Kabir Ahmed Sidhu and his Indonesian counterpart, Prof. Dr. M. Afif Hasbullah, Chairman of the KPPU (Indonesian Competition Authority) along with their respective teams attended the virtual meeting. Senior officials from the Indonesian Embassy in Pakistan were also in attendance.

The meeting delved into the potential collaboration between the competition agencies. They discussed avenues for knowledge sharing,

best practices, and capacity-building initiatives. Both parties expressed their keenness to explore these opportunities for the benefit of their respective economies.



Chairman CCP Acted as a Moderator in the Global Forum on Competition



Meetings & Interactions



Importance, including the appointment of the Chairman Competition Appellate Tribunal and the progress on CCP's pending court cases.
 @NaseemAhsan



Competition Commission of Pakistan @CCPPakistan
 Ms. Rahat Kausar Hassan, former Chairperson of the Competition Commission of Pakistan, visited CCP and met the current Chairman, Dr. Kabir Ahmed Sidhu. They discussed CCP's continued focus on enforcement, advocacy, dealing with pending cases, and policy research.



Competition Commission of Pakistan @CCPPakistan - Nov 3
 Chairman CCP Dr. Kabir Ahmed Sidhu met with the Chairman of the Competition Appellate Tribunal (CAT) Dr. Farogh Naseem today. They discussed the progress of the CAT and the importance of the Competition Appellate Tribunal in the resolution of pending cases.



ADVOCACY

Activities

§29 of the Act requires the Commission to engage in advocacy through various means to create awareness of competition issues and to promote a culture of competition in the country. The Commission understands the reason and importance of advocating competition, especially in a developing economy like Pakistan, where the general awareness of the business community may not be at an ideal level.

Competition Law Made Part of ICAP DTP



The Institute of Chartered Accountants of Pakistan (ICAP) has included a module on Competition Law in its Directors Training Programme.

This strategic decision emerged from a collaborative meeting between CCP and ICAP in November 2023, during which a delegation from ICAP engaged with CCP to explore potential areas of cooperation. The meeting was attended by Mr. Salman Amin, Member (OFT, Exemption

& Advocacy) CCP, Mr. Shahzad Hussain, DG CCP, Mr. M. Ali Latif, President ICAP, Mr. Arslan Khalid, Vice President ICAP, Mr. Asad Feroze, Vice President ICAP and Mr. Ashfaq Tola, Former President ICAP.

As part of CCP's advocacy strategy a module on Competition Law is being introduced to professional bodies to enhance the proficiency of corporate leaders on provisions of Competition Act, 2010. It was decided in a meeting between

ICAP and CCP that the module will be covered through two comprehensive sessions. The first session was held in Karachi in December 2023.

The module encompasses the requirements of the law with regards to fair trade, prohibitive agreements and avoiding deceptive marketing practices. The module also covers the process for seeking approval of mergers & acquisitions and for seeking exemptions.

Seminar on Competition Law with Members of ICAP at Karachi



CCP in collaboration with the Institute of Chartered Accountants of Pakistan (ICAP) organized a seminar on Competition Law in Karachi. The seminar, held under ICAP's Continuing Professional Development program, aimed to enhance corporate leaders' understanding of competition law and promote fair competition.

The CCP delegation leading the seminar included Mr. Salman Amin, Member (Exemption & Advocacy), Mr. Ahmed Qadir, DG, Competition Policy & Research and Mr. Shahzad Hussain, DG, (Legal, Advocacy)/Registrar.

CCP And ACCA Collaborate to Create Awareness of Competition Law



Chairman CCP, Dr. Kabir Ahmed Sidhu, with the visiting ACCA delegation

CCP and the Association of Chartered Certified Accountants (ACCA) will jointly create awareness of the Competition Law among ACCA members.

ACCA, a global professional body of finance professionals, has a vast member base in Pakistan, serving in various sectors. As per the discussion held between CCP and ACCA, Continued Professional Development (CPD) activities will be carried out across Pakistan for ACCA members. The CPD will focus on Competition Law, which will benefit the ACCA members, businesses, and consumers.

CCP will also offer internship opportunities to fresh ACCA members and affiliates in various departments of the Commission. This will provide them with valuable hands-on experience in the field of Competition Law and regulatory processes.

The meeting was attended from CCP by Mr. Salman Amin, Member (OFT, Exemption & Advocacy), Mr. Shahzad Hussain, DG Legal & Advocacy, and Mr. Salman Zafar, HOD C&TA & Finance CCP whereas the ACCA side was represented by Mr. Assad Hameed Khan, Head of ACCA Pakistan, and Mr. Asad Malik, Head



of Business Development – North. Under Section 29 of the Competition Act, CCP is mandated to promote competition through advocacy. This also includes creating awareness and imparting training about competition issues.

IBA To Introduce Competition Law Module in Directors Training Program



A CCP delegation led by Mr. Salman Amin, Member (Office of the Fair Trade, Exemptions and Advocacy), visited the Institute of Business Administration (IBA), Karachi. During the visit a meeting was held with the IBA administration in which it was agreed to integrate a Competition Law Module into its Directors Training Programs (DTP) being carried out under the auspices of IBA.

This addition of Competition Law Module in the DTPs aligns with CCP's advocacy strategy and aims to strengthen the proficiency of corporate leaders in Competition Law. The

CCP delegation also included Mr. Ahmed Qadir, Director General, Competition Policy, and Research and Mr. Shahzad Hussain, Director General (Legal, Advocacy and Registrar). IBA was represented by Mr. Abdul Rahim Suriya, Mr. Furqan Tamoor, Senior Manager, Centre for Executive Education (CEE), IBA, and Ms. Kehkashan Mazhar, Assistant Manager, CEE.

It was also discussed in the meeting that IBA will inform the Securities and Exchange Commission of Pakistan (SECP) about the addition of the competition law module to their DTP programs.

A seminar was also held in which a comprehensive presentation on competition law to students of marketing, economics, and business studies departments at IBA was given. The presentation delved into the fundamental aspects of Competition Law, offering insights into its historical context and emphasizing its crucial role in fostering Pakistan's economic progress within an open competitive framework.



Air University Hosts Awareness Session on Competition Law



Aligned with CCP's Advocacy strategy, an awareness seminar on Competition Law was held at the Air University School of Management (AUSOM) on December 19, 2023. Mr. Shahzad Hussain, Director General (Legal, Advocacy)/Registrar of CCP, gave a comprehensive presentation on competition law for both students and faculty at AUSOM.

The central aim of this seminar was to augment awareness among the participants

concerning Competition Law, with a specific focus on elucidating its substantive provisions that play a crucial role in fostering economic growth.

The concluding remarks by Mr. Salman Amin, Member CCP, underscored the paramount importance of understanding and adhering to the tenets of Competition Law in the contemporary economic landscape.

Media Impressions



Enforcement Against Deceptive Marketing Practices

The Office of Fair Trade (OFT) promotes fair competition and trade practices, intervening against hardcore offenders. It reviews marketing practices, ensuring that businesses adhere to competition law and correcting misleading information to protect both businesses and consumers, fostering confidence in the economy.

ENQUIRIES

During the review period, the OFT successfully concluded seven enquiries, while the Commission approved four others for further action. The ongoing inquiries span across various sectors, reflecting the diverse areas of focus during this period.



Pharmaceutical

Two enquiries pertaining to the unauthorized and fraudulent use of trademark are in progress in pharmaceutical sector.

A pharmaceutical company formally lodged a complaint against four other pharmaceutical firms, alleging a prima facie violation of Section 10 of the Act. The accusations centered on the fraudulent use of the complainant's registered trademarks. The Office of Fair Trade at the Commission has concluded its fact-finding report and has submitted it for review.

Concurrently, a separate inquiry was initiated based on a formal complaint from another pharmaceutical firm, claiming the unauthorized use of its registered trademark by a competitor. The enquiry committee has summoned the respondent to present a justification for the use of the trademark. This investigation is currently underway.



Automobile

A formal complaint has been filed by a tire manufacturer against another company in the same industry, alleging a potential violation of Section 10 of the Act.

The essence of the complaint centers on the marketing campaign executed by the respondent, wherein their product is promoted as possessing up to 40% greater longevity compared to standard tires.

The Commission's enquiry committee has concluded its fact-finding report on the matter.



Construction Sector

A complaint was received from one paint manufacturer against another for marketing its product as "Asia's No. 1 Paint" in television advertisements. An inquiry conducted by the Commission revealed that the claim made by the accused paint company was supported by credible data.

The investigation determined that the product in question secured the top position among 25 paint brands in the Asia Pacific Region, as confirmed by sales data compiled by Orrs & Boss Consulting on behalf of Asia Pacific Coating Journal. The findings validated the legitimacy of the advertising claim. In light of this verification, the matter was recommended for disposal, as the advertising claims are based on verifiable facts.

A steel manufacturer has filed a complaint against a construction firm, alleging the unauthorized use of a registered trademark. The accusation contends that the construction firm, in its promotion of services, utilized the registered trademark of the steel manufacturer, thereby violating Section 10 of the Act.

The Commission's enquiry committee has summoned the construction firm to provide a reasonable justification for employing the registered trademark of another entity. The enquiry is currently underway.



Digital Economy

The Commission received various concerns and complaints regarding various Micro/Nano Loan digital Applications, extending loans to the general public. Taking notice of the concerns, the Commission started an enquiry to establish whether these applications were deceiving consumers in violation of Section 10 of the Act.

The enquiry committee is looking into issues such as disparity between advertised and actual interest rate and service fee; claims about instant loans, data privacy and security; non-disclosure of material information, etc. This enquiry is in progress.



Services Sector

The Commission initiated an enquiry on a formal complaint against an inspection and certification firm. The firm has been accused of unauthorized use of the registered trademark belonging to the complainant. The enquiry is in progress.



Your Voice, Our Action

During the last six months, the OFT received 14 informal complaints, with 03 complaints closed as they were found not to be in violation of Section 10. Additionally, 02 complaints were consolidated into an ongoing inquiry concerning loan shark apps, while the remaining 09 complaints are currently undergoing initial investigation.

Complaints can be submitted through various channels, including in-person, by courier, email (complaints@cc.gov.pk), or via the Commission's online complaint portal at <http://203.99.62.74/CMS/complaint.aspx>. After the initial scrutiny or preliminary probe, the Commission may initiate a formal inquiry by forming an Enquiry Committee to further investigate the matter.

OFT's Vigilant Lens

Unveiling 29 Marketing Claims, 12 Justified, 1 Altered for Compliance in Recent Probes

The Office of Fair Trade regularly conducts screenings across various channels, such as advertisements, product packaging, social media, websites, print/electronic media, and other marketing mediums. Sectors chosen for regular vigilance include FMCG, Education, Real Estate, Solar Energy, Electric Cables, Banking, and Software. To ensure compliance with Competition Law, the OFT specifically examines advertisements in newspapers, websites, and social media within these sectors.

In recent activities, the OFT identified 29 instances of potentially deceptive marketing claims. Out of these, 23 undertakings were

approached to provide justification and substantiation for their claims. Among them, 12 undertakings provided reasonable justifications, and one undertaking modified its marketing claims, ensuring compliance with the Competition Act. Currently, the remaining 10 matters are in the correspondence phase.



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Competition Law is a Key Driver of Economic Growth and Innovation, Promoting Efficiency, and Benefiting Consumers.



Fluff & Bluff – The Reality of Digital Lending Applications as Loan Sharks

Contributed by: Ms. Kishwar Khan, DG OFT

Recently Pakistan faced the exploitative scams of digital lending apps. They targeted the marginalized population by lending nano/micro loans of up to ten thousand rupees. Newspapers and televised programs, raised concerns on predatory lending. In Rawalpindi, a man reportedly committed suicide, as his loan compounded manifold. The relevant

organizations did initiate actions, however, in the meantime much of the damage was already done.

In this background, this article explores some crucial questions: why are the digital lending apps called loan sharks; what are their detrimental practices? What did the agencies do in other countries and in Pakistan to stop them?

More specifically, while identifying the root causes of the issue, what maybe the way forward? Towards the end, it is concluded that the loan sharking is a matter of public interest. The crisis has slowed down indeed but is not yet over. Hence, continuous efforts are required to curb the LSAs, and to improve the economy.

1. What practices of digital lending apps make them ‘loan shark apps’ (LSAs)?

Mobile applications using digital platforms offer instant nano/ micro loans to consumers. **It looks attractive indeed to get an amount, not at the doorstep but at the palm.** However, the lending and repayment is not this simple. The loans have certain terms & conditions and charges. The exploitative mechanism of the lenders resembles traditional ‘loan sharks’, hence termed as ‘loan shark apps’. Predatory LSAs trap

borrowers into cycles of debt.

LSA’s developer/publisher or owner design a stream of advertisements on social media. To attract potential consumers, they use simple steps to convey message of instant cheap loans. The reviews of apps at the Google Play Store, show the following harmful practices:

- A) Hiding essential information e.g. actual charges, period of loan and lending time.
- B) Harassment to borrowers - threats and calls to any contact for repayment of loan.
- C) Data privacy issue: LSAs access device’s camera, contacts, etc. asserting data usage by the platform’s privacy policy and relevant laws. Whereas some apps do not have a privacy policy. Apprehensions are: a) non-private data usage; b) data collected but no loans offered implying the purpose was only data collection; c) less loan offered to those having less data; and d) possibility of data sales to third parties.
- D) Issues in the repayment of loan: The app’s account did not accept payment or did not show cleared payment, thus adding surcharge.
- E) The terms of foreign jurisdictions are agreed to by the customers having no choice.



2. How did various countries deal with the LSAs?

The countries controlled the LSAs with concerted measures, including the following:

A) Prudential Banking: Discovering 550 illegal digital lenders, the Reserve Bank of India tightened regulations. Kenya's Central Bank can revoke permits of lenders violating customer confidentiality, Data Protection or the Consumer Protection Act.

B) Stringent Financial Regulations: The China Banking and Insurance Regulatory Commission and finance bureaus regulate online micro lending. In 2008, they issued "Guidance on Micro Lending Company Pilot", setting conditionalities for micro-lending. In the UK, lending money on interest without Financial Conduct Authority's licensing/ registration is considered loan sharking. The South Korean Financial Service Commission (FSC) along with relevant ministries devised rapid alert system to detect illegal lending and its advertising.

C) Restrictions on the upper limit of interest rate: In the USA, Annual Percentage Rate of 36% or higher is not allowed for apps. In the South Korea, since 2021, charging interest rate above 20 percent is illegal, else lenders face imprisonment or fines. The Supreme People's Court, China slashed the upper limit on interest rates.

D) The IT Ministry blocking LSAs: In Indonesia, 7000 unlicensed fintech lenders were blocked from 2018 to 2021.

E) Google – pivotal in resolving the issue: Google updated its developer policy for Indonesia, Philippines, India, etc. in India 2,000 questionable apps were removed.

F) Investigating agencies unearthed LSAs in India, where fintech companies colluded with NBFCs for predatory lending.

G) Police in action: A Chinese LSA network victimized thousands and led to death of 89 people. Police busted it in 2019 and closed over 1,300 illegal lending apps/ websites.

H) Raising Public Awareness: The FSC informs the public about tactics of LSAs, and government microloans. The FCA has 'Illegal Money Lending Hotline' for public.

3. From where the problem started in Pakistan?

Prior to the wave of LSAs in Pakistan, for Microfinance companies and non-banking microfinance companies (NBMFC) registration from the Securities & Exchange Commission of Pakistan (SECP) was mandatory, whether lending digitally or otherwise. Also, NBMFCs were to obtain credit report from the State Bank of Pakistan's (SBP) Credit Information Bureau (CIB) or other relevant CIB for finances exceeding ten thousand rupees. However, only few digital lenders registered with the SECP. While dozens started operating outside the radar of regulatory framework, with below the regulatory limit of extending loans of PKR 10,000 or above. For this, no CIB's credit report requirement was there. Further, most of the apps did not have a physical presence in Pakistan and/or were operated by the third parties. Therefore, the regulatory framework initially could not monitor the LSAs.

4. Why did the apps get popularity in Pakistan?

A) Poverty escalation: In 2022, the floods submerged one third of Pakistan affecting 33 million people. The Post-Disaster, and Human Impact Assessments estimated national poverty rate to increase by 3.7 to 4.0 percentage points, pushing about 9.1 million people below the poverty line. Poverty measured at the lower middle-income poverty line (3.65 USD/day 2017 PPP per capita) is projected to increase to 37.2% in FY23, pushing 3.9 million more people into poverty as compared to FY22. It is alarming that the depth and severity of poverty also increased.

B) Low financial inclusion of about 21-30% for 230 million Pakistanis, implying individuals' low

access to formal credit. The lack of awareness of formal financial products is a reason for low financial inclusion. Pakistan has the third largest unbanked adult population in the world, LSAs filled the gap for this untapped market.

C) Advertising tactics: The digital apps advertised in simple language. In a few clicks, the informational videos explain the easy process of lending, thus luring consumers.

D) Macro-economic trends are quite noticeable from 2017 onwards, which contributed towards the popularity of LSAs. For instance, a sharp decline in the GDP growth rate combined with

high unemployment (Figure 1), steep rise in inflation (Figure 2). At the same time, population kept on rising (Figure 3). A tele-density of 84% (Figure 4) implies that the lending apps were accessible to a growing number of people.

5. What has been the response of relevant institutions in Pakistan?

The SECP being the prime regulator, collaborated with Google, the Federal Investigation Agency and Pakistan Telecom Authority to remove 120 unauthorized apps. SECP published apps' Whitelist for the public to check legal status. The Competition Commission of Pakistan initiated an enquiry on the LSAs, and urged people to exercise caution for nano lending. The SBP issued a circular on 'Digital Payment Services to Unauthorized Digital Lending Apps' to restrict their access to banking channels.

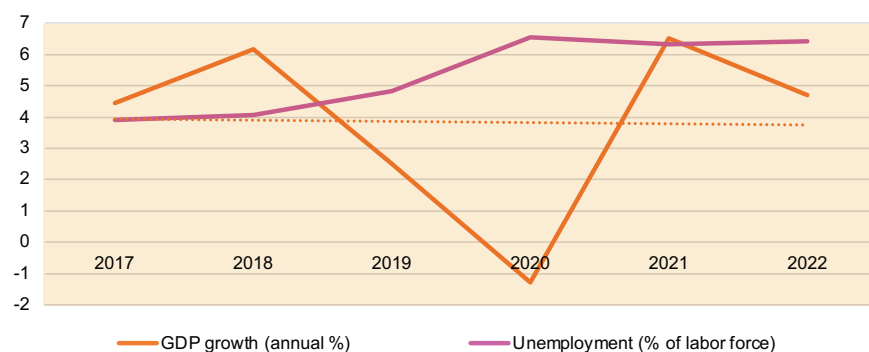


Figure 1.

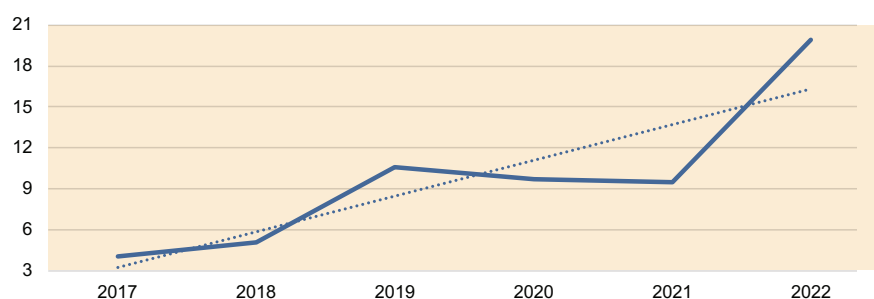


Figure 2 - Inflation, consumer prices (annual %)

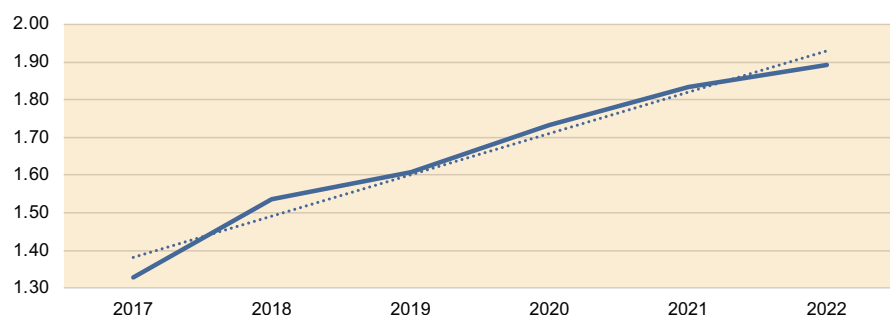


Figure 3 - Population growth (annual %)

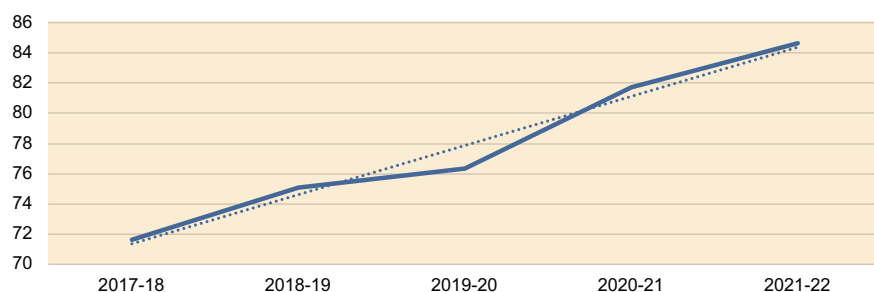


Figure 4 - Teledensity %

6. What is the way forward?

A) General awareness creation about the apps' fraudulent and deceptive practices.

B) Flexible financing options for lower stratum of population by the formal channels.

C) Various regulators to join hands and continuously monitor the issue.

D) The rehabilitation of LSAs' victims seems a neglected area so far. Through the collaboration of Benazir Income Support Program with other relevant institutions, comprehensive and customized support programs can be introduced. These may cover legal, financial, social welfare and employment assistance to loan sharking victims.

E) Regional and multilateral collaborations are crucial, as digital loan sharking generally involves more than one jurisdiction. The United Nations Conference on Trade and Development has engaged governments and institutions to deliberate upon such issues. Pakistan should also participate actively to find out long term solutions.

7. What do we conclude?

A) The experience of various countries shows that the LSAs will continue to find ways to reach potential customers by changing the digital guise. To safeguard public interest, their unfair practices need to be investigated, curbed and modified regularly with stringent actions.

B) The success of loan sharking is a manifestation of poverty and macro-economic imbalances in Pakistan. Therefore, the quest for economic stabilization and structural adjustment is far greater than ever.

DISCLAIMER:

The opinions presented in this article are those of the author and do not necessarily reflect the stance of the CCP.

CCP Directs Consumer Brands to make Full Disclosure on Product Discounts

On December 30, 2023, the Commission issued a warning to shoe and clothing brands offering discounts to ensure complete and visible disclosures regarding actual and discounted prices. Brands violating this directive may face enforcement actions by the CCP.

Upon receiving concerns during the ongoing seasonal surge in discounts, particularly within clothing and shoe brands, CCP uncovered instances of deceptive marketing practices. Preliminary investigations indicate that such practices may violate Section 10 of the Competition Act, 2010, constituting deceptive marketing.

CCP'S PRELIMINARY PROBE

The CCP's survey and preliminary probe identified 27 brands offering 'flat' discounts on their products. However, CCP noticed that the 'Flat discount' didn't apply to all items. The discount advertised outside the shop was higher than the actual sale prices inside. The disclaimer about 'Terms & Conditions' had an illegible font size. In numerous cases, 'Terms & Conditions' weren't mentioned at all.

Additionally, certain offers, like 'Flat 50% plus 20% on bank cards,' had differing terms for online and retail purchases, leading to confusion and potentially misleading consumers into uninformed purchases. These discrepancies were observed in approximately 96% of the outlets surveyed.

A PIECE OF ADVICE TO CONSUMERS

This lack of disclosure containing essential information hampers consumers' ability to make informed decisions. CCP advises consumers to exercise vigilance and thoroughly review the terms and conditions of discounts and sales offers to avoid falling victim to deceptive marketing practices.

GUIDELINES ON SECTION 10 OF THE COMPETITION ACT

CCP has already issued "Guidelines on Section 10: Deceptive Marketing Practices," which also prohibit 'Bait and Switch Advertising'. It is the act of advertising a product at a low price but charging a higher price at the point of purchase. These guidelines emphasize the responsibility of undertakings to ensure clear disclosure of terms and conditions across all media to avoid creating false impressions about the goods on offer. Fine print disclaimers and qualifications that are difficult to read or hide important information are strongly discouraged.



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