Volume 5, Issue 2

Competition Commission of Pakistan

Creating a level playing field

CETERIS PARIBUS

"all other things being equal"

Official Newsletter of the Competition Commission of Pakistan

July - December 2021

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Competition is not only the basis of protection to the consumer, but is the incentive to progress.

- Herbert Hoover

SECTION 3
Abuse of Dominant Position

SECTION 4
Prohibited Agreements

§ 3 of the Act deals with abuse of dominant position and § 4 prohibits agreements between undertakings and decisions by association of undertakings that can distort competition in a market. The Cartels & Trade Abuse Department investigates potential violations of § 3 & 4 of the Act and recommends relevant actions to the Commission.

Orders & Enquiries

PKR 44 Billion Penalty Imposed on PSMA & 81 Sugar Mills for Cartelisation

The Commission passed a historic judgment against Pakistan Sugar Mills Association (PSMA) and 81 member mills for violations of Section 4 of the Competition Act, 2010. The Commission initiated an enquiry to analyse "possible anti-competitive activities in the sugar industry". To gather evidence, search and inspections were carried out under Section 34 of the Act at the premises of PSMA and of one of the sugar mills.

After hearing the parties at length, the majority decision passed the order imposing a penalty of approximately PKR 44 billion (based on calculation of 55 mills' 2019 turnover figures, including consolidated turnover figures for same group mills, available with the Commission).

The Commission's four Members Bench, comprising of the Chairperson Ms. Rahat Kaunain Hassan, and three Members including Ms. Shaista Bano, Ms. Bushra Naz Malik and Mr. Mujtaba Ahmad Lodhi was constituted to hear the case. All four Members of the Commission were unanimous in their view and arrived at unqualified consensus on background facts, formulation of issues, determination of preliminary/technical objections, the determination of the relevant market and the spill-over effect, and the determination of Issue VI (ceasing of sugarcane crushing) as addressed in the opinion of Ms. Rahat Kaunain Hassan and Mr. Mujtaba Ahmad Lodhi dated 6 August 2021. However, two Members, Ms. Shaista Bano and Ms. Bushra Naz Malik, recorded a different opinion dated 12 August 2021 on other Issues, thus, the Commission was faced with a deadlock situation.

Therefore, having duly considered the overall purpose and intent of the Act, the attending public policy framework and consideration and the general public interest that the Act seeks to protect and enforce, the Chairperson exercised her second and casting vote as envisaged under the Act to break the deadlock.

The breakup of the penalty, which is the highest ever till date:

a) *PSMA has been imposed the maximum fixed penalty of PKR 75 million each for four contraventions, amounting to a total of PKR 300 million, having been found to be persistently and actively at the forefront of such collusive anti-competitive practice.*

b) *5% of the respective 2019 annual turnover of each of the member undertakings, located in Sindh, KPK and Punjab for collectively deciding the quantum of exports invariably affecting/controlling the domestic supply of sugar in the relevant market for the period 2012 to 2020*

c) *7% of the respective 2019 annual turnover of each of the member undertakings located in Punjab, for sharing and discussing sensitive commercial stock information with PSMA for the period 2012 to 2020.*

d) *A fixed penalty of PKR 50 million on each of the 22 participating member undertakings in the 2010 USC Tender.*

Background of the Case

The Order disposes off Show Cause Notice proceedings against PSMA and 84 sugar mills pursuant to the prima facie findings of the Enquiry Report. The hearings for 79 mills (5 mills chose not to appear or respond to the SCNs) spanned a considerable period, commencing on 7 January 2021 and concluding on 26 May 2021, where all concerned parties availed the opportunity of hearing on multiple occasions and submitting detailed written arguments in their defence.

Continued from Page 02...

The Majority Decision

As per the Commission's majority decision, PSMA and the Punjab sugar mills have been found to have shared commercially sensitive stock information amongst themselves in violation of Section 4 of the Act. It was observed in the Order that given the peculiarities of the sugar sector (inter alia the cyclical production of sugar, the homogeneity of the product and the relative stability of demand) makes such stock information highly sensitive and critical. Such information would allow mills to assess and coordinate on future sales volumes and pricing strategies, effectively distorting competition in an already highly regulated market. Nothing on record showed that the Government/SAB required PSMA to collect the same. Punjab mills went even further to share and discuss the same between themselves through establishment of zonal sub-committees and creation of a Whatsapp group. The Commission also found that such information was not 'publicly available' given that it was mill-specific, shared frequently and in real-time/on fortnightly basis.

The majority decision of the Commission held that, through discussion of supplies and stock of sugar, PSMA and sugar mills collectively pre-determined export quantities, as evidenced by the minutes of PSMA's annual general meetings on record, in violation of Section 4 of the Act. Although no violation was alleged on account of lobbying in the SCNs, the Commission has recognized that lobbying activities may be a mere guise for conducting anti-competitive activities, where in the instant matter, PSMA is clearly lobbying as a mechanism to pursue a favorable decision regarding quantum of exports and thereby controlling domestic supply of sugar that is likely to have a resultant impact on prices. The minutes of the SAB meetings evidenced that PSMA asserts an estimate for exportable surplus, which is based on higher estimates of stock available or sugar production figures.

Collusion in Tenders of Utility Stores Corporation of Pakistan

With regard to the USC Tenders, the majority decision of the Commission found that PSMA has gone beyond its role as an association and interfered in the award of the tenders by fixing quantities amongst certain member mills in violation of Section 4 of the Act. The Commission took a lenient view for concerned mills in relation to the 2019 USC Tender as USC's record showed that the tender was undersupplied and only awarded to 5 mills, who won the tender. However, for the 2010 USC Tender, the participating mills were found liable as PSMA could not have acted without their consent/agreement. The Commission was of the view that protecting or promoting competition does not solely mean 'having the lowest price' and that the choice to participate in a competitive bid and the submission of bid rates are all independent commercial decisions to be made by each individual sugar mill.

Stopping The Crushing Season

With regard to the stoppage of crushing in the crushing season 2019-2020 by 15 Punjab mills on call of PSMA, the Commission, unanimously, found insufficient evidence to establish a contravention of Section 4 of the Act. Three mills were also found not liable for any contravention during the concerned period on account of their non-participation or being non-members of PSMA.

THE COMMISSION DIRECTED:

a). *The Mills whose turnover figures were not available with the Commission to provide the same.*

b). *The Registrar to issue SCNs to all mills located in Sindh and KPK for contraventions on account of sharing commercially sensitive information.*

c). *Remanded the matter in relation to Issue VI (ceasing crushing of sugarcane) to the Enquiry Committee for further probe.*

d). *PSMA and the sugar mills to discontinue and stop the said violations forthwith and to deposit the penalty within 60 days of the issuance of the Order.*

The Government Intervention

The Commission observes that Governmental interventions at any end make it all the more important to preserve the latitude for competition that remains in the relevant market. The Commission is cognizant that it must engender best practices in the conduct of business and continue to encourage businesses to adopt behavioural change, so that not only do they individually achieve greater economic efficiency and benefit but their responsible business ethic passes on the benefits of the economic enterprise at the national level.

ORDER ON

SUGAR SECTOR CARTELIZATION

The Commission initiated an enquiry on 19 December 2019 in order to analyze possible anti-competitive activities in the sugar industry. An Enquiry Committee was constituted to ascertain the state of competition in the sugar industry while taking into account various factors including, inter alia, the cost of production of sugar.

01. INITIATION OF ENQUIRY

The Commission initiated an enquiry on 19 December 2019 under Section 37(1) of the Act in order to analyze possible anti-competitive activities in the sugar industry.

02. SEARCH & INSPECTION

To gather evidence, enter and search inspections were carried out under Section 34 of the Act at two premises of PSMA (14 September 2020) and of one of the sugar mills (25 September 2021).

03. SUPPLY CHAIN

04. OVERVIEW OF SUGAR SECTOR IN PAKISTAN

Contribution to GDP **0.7%**

Addition in agriculture **2.9%**

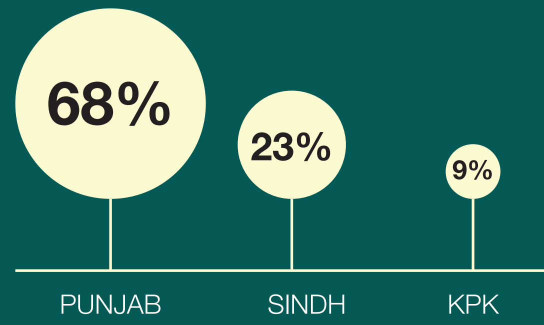
Manufacturing sector **4.2%**

People directly employed

1.5 Million

People indirectly employed

9 Million



Province-wise share in sugarcane production

Punjab	45
Sindh	38
KPK	07

Sugar mills in Pakistan **90**

Total installed crushing capacity of operational sugar mills is more than

70 Million Tons

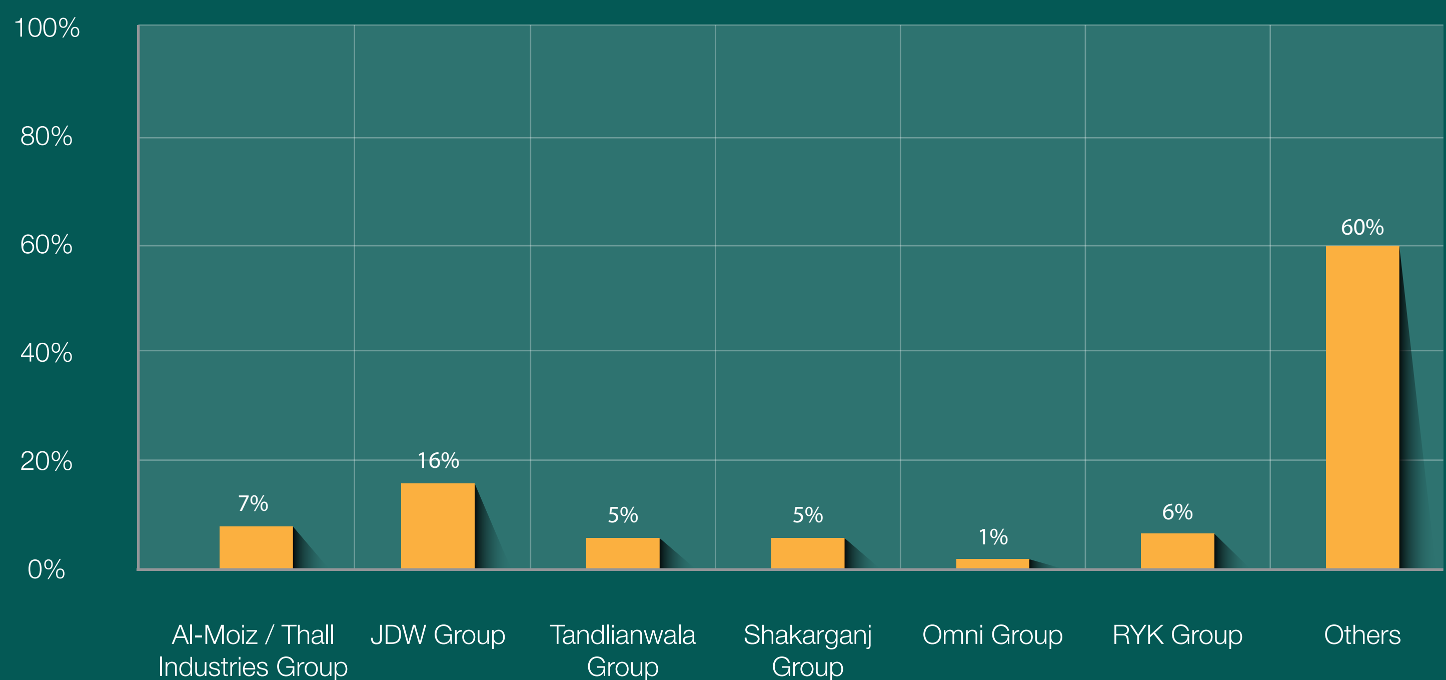
Annual consumption per capita was around

25 kg/year

Average sugar production during last 3 years decreased from

6.617 MMT - **4.879** MMT

MARKET SHARE OF VARIOUS GROUPS



05. FINDINGS OF ENQUIRY REPORT

INDIVIDUAL OR COLLECTIVE DOMINANCE

No individual or collective dominance found in the relevant market

COLLUSIVE BEHAVIOUR BEHIND THE SUGAR SHORTAGE

Starting from 2012 to date(i.e, 2020), PSMA and its member mills found involved in fixing/controlling supply within the relevant market.

COLLUSION IN UTILITY STORE CORPORATION TENDERS

For USC tender of 20,000 MT of sugar, PSMA Punjab Zone mills were found involved in bid rigging by fixing and dividing the quantity of sales among themselves.

COLLECTIVELY DECIDE TO CEASE CRUSHING OF SUGARCANE DURING CRUSHING SEASON 2019-20

The decision to cease crushing in the season 2019-20 was prima facie the result of a collective decision on part of the sugar mills.

SHARING SENSITIVE COMMERCIAL INFORMATION

Since 2012, the platform of PSMA is being used by its member mills in Punjab Zone to share sensitive commercial information.

06. SHOW CAUSE NOTICE

On the recommendations and findings of the Enquiry Committee, the Commission had issued show cause notices on 10th November 2020 to Pakistan Sugar Mills Association (PSMA) and its 84 member mills.

07. FINDINGS OF THE MAJORITY DECISION

1. PSMA and the Punjab sugar mills have been found to have shared commercially sensitive stock information.

2. PSMA and sugar mills colluded and collectively pre-determined export quantities, which is anti-competitive

3. PSMA interfered in the award of the tenders by fixing quantities amongst certain member mills.

4. No evidence was found to establish a contravention regarding stoppage of crushing in the crushing season 2019-2020.

Hearing for **79** Mills held on

2021

7 January

26 May

08. PENALTY IMPOSED

The Commission imposed a penalty based on calculation of 55 mills' 2019 turnover figures, including consolidated turnover figures for same group mills, available with the Commission.

PSMA has been imposed the maximum fixed penalty of PKR 75 million each for four contraventions amounting to a total of PKR 300 million

5% of the respective 2019 annual turnover of each of the member undertakings, located in Sindh, KPK and Punjab for collectively deciding the quantum of exports invariably affecting/controlling the domestic supply of sugar

7% of the respective 2019 annual turnover of each of the member undertakings located in Punjab, for sharing and discussing sensitive commercial stock information with PSMA for the period 2012 to 2020

A fixed penalty of PKR 50 million on each of the 22 participating member undertakings in the 2010 USC Tender

PKR 44 Billion

09. CONCLUSION AND DIRECTIONS

1. The Mills whose turnover figures were not available with the Commission to provide the same.
2. The Registrar to issue SCNs to all mills located in Sindh and KPK for contraventions on account of sharing commercially sensitive information.
3. Remanded the matter in relation to Issue VI (ceasing crushing of sugarcane) to the Enquiry Committee for further probe.
4. PSMA and the sugar mills to discontinue and stop the said violations forthwith and to deposit the penalty within 60 days of the issuance of the Order.

COURT JUDGEMENTS UPHOLD CONSTITUTIONALITY OF COMPETITION ACT, 2010

In a historic judgment passed on 16 September 2021, the Honourable Islamabad High Court upheld the constitutionality of the Competition Act, 2010 and the Competition Commission of Pakistan. The order was issued in WP 4942/2010 titled 'Islamabad Feeds and others v Federation of Pakistan and others.

On the constitutionality of the competition law, the court held that the Parliament is the competent legislature to promulgate laws to regulate trade, commerce, and intercourse across provinces and within any part of Pakistan under Article 151 of the Constitution. Since the Competition Act, 2010 is a law that regulates the individual right to engage in trade and business in the interest of competition to provide for free trade, commerce and intercourse throughout Pakistan, the Parliament is competent to promulgate such a law. In other words, the Federation of Pakistan has the legislative competence to promulgate the Competition Act, 2010 and consequently the Act is intra vires the constitution.

This order of the Islamabad High Court adds to the unanimous view of a three-member Lahore High Court bench that already declared, through its decision in WP 9518/2009 titled 'LPGAP v Federation of Pakistan, the Competition Act, 2010 as within the legislative competence of the Parliament'. As a result, there remains no doubt as to the constitutionality of the Act. This is a welcome outcome of an otherwise protracted constitutional litigation imposed on the Federation of Pakistan and the Commission since the latter's inception in 2007 by various business undertakings that were facing action under the law for anti-competitive behaviour.

The conclusion of this and other long-standing cases in various courts became possible due to the constant support of the Federal Government and the Attorney General of Pakistan who personally appeared before various High Courts of Pakistan to plead the case of the Federation.

Media Bodies Warned of Competition Violations

Bol Media Network along with Labbaik, and Bol Enterprises filed a complaint that it had been denied rating by the Pakistan Broadcaster Association (PBA), Broadcaster Advertiser Council (BAC), and Medialogic because of three agreements/arrangements between Medialogic, BAC, PBA and Pakistan Advertisers Society (PAS). Bol termed these agreements and arrangements anti-competitive and a violation of Section 4 of the Competition Act, 2010.

According to the complaint, the first Agreement dated 15 July 2018, was executed between Medialogic and PBA, wherein the Medialogic was restricted from providing services to any other broadcaster than PBA. The second Agreement, signed in November 2017, was a Joint Venture Agreement between PBA and PAS to create the BAC. According to this agreement, the broadcasters, who were not PBA members, were excluded from being members of BAC. The third Agreement dated 5 January 2018 was executed between BAC and Medialogic, under which BAC shall endorse the services provided by Medialogic being the official industry currency. Moreover, BAC's approval would be necessary in case Medialogic grants rating to any other customer.

On the enquiry's recommendations, the Commission issued show cause notices to the BAC, PBA and Medialogic and held hearings in the matter.

After hearing the case, the two-member bench comprising Ms. Bushra Naz Malik and Mujtaba Ahmad Lodhi passed the Order in which it decided not to impose any penalties on PBA, BAC and Medialogic, keeping in view that the Supreme Court has already resolved the Complainants' main grievances through a consent decree and the law regulating the Television Audience Measurement (TAM) data.

The Supreme Court in its Orders in CR.O.P 108/2018 in Human Rights Case No. 34069/2018, held that PEMRA would be the sole regulator for the said market and Bol Media Network shall apply for subscription of PEMRA; the rating companies shall follow the regulations and the terms and conditions of the license based on which they have been granted their license.

The Commission gave Bol multiple chances to establish if there were any other grievances, apart from the ones resolved through the Supreme Court Order, so that it may adjudicate upon. Bol did not apprise the Commission of any other grievances. However, the Commission issued directions to the Respondents under Section 31(b) of the Act warning them against engaging in any such activities in the future, as any future violation may result in strict punitive action.

Enquiry Report, Show Cause Notice Set Aside

Dabur India and Dabur Pakistan jointly filed a complaint regarding the use of the trademark 'HAJMOLA' by Hilal Foods. It was mentioned that the Honorable Sindh High Court had passed an interim order to permit all of them to use the trademark "HAJMOLA". However, Hilal Foods in its letters to the Pakistan Broadcasting Association and advertisements in newspaper deceptively conveyed to the consumers that the trademark "HAJMOLA" was its exclusive right.

The Commission's enquiry established that Hilal Foods was, *prima facie,* disseminating false and misleading information regarding the exclusivity and affiliation of the brand name "HAJMOLA" despite the Court's interim order. Therefore, a Show Cause Notice was issued to Hilal Foods and hearings were held in the matter.

In its Order, the Commission was of the view that Section 10(2)(d) of the Act prohibits "Fraudulent use of another's Trademark, firm name or product labelling or packaging". Therefore, the Commission may only proceed where the fact of ownership of trademark, firm name, product labelling and packaging is not in dispute. Whereas, an interim order implies that there are questions yet to be settled by the Sindh High Court to determine intellectual property rights. Therefore, the matter remains beyond the scope of the Commission until it is finally decided by the Court. Based on this principle, the Commission did not have any grounds to continue with these proceedings. So, the Show Cause Notice and Enquiry Report were set aside.

Enquiry Unearths Cartelisation
in Day-Old Broiler Chicks Market

The Commission concluded an enquiry and found cartelisation and price fixing of day-old broiler chicks by a, *prima facie,* cartel of eight hatcheries from 2019 to 2021.

The Commission suo motu took notice of concerns raised by broiler farmers through Pakistan Citizens' Portal. Suspecting cartelization in the sector behind the rising prices of day-old broiler chicks, the Commission initiated an enquiry into the matter. As part of the enquiry, the Commission conducted search and inspections on the premises of the Pakistan Poultry Association (PPA) and a company involved in the sale of day-old broiler chicks in June 2021.

A forensic analysis of the evidence impounded from these premises revealed that an official of one of the eight hatcheries played a lead role in the cartel by working as the focal person to announce mutually agreed prices of day-old broiler chicks. The rates were conveyed to other hatcheries and the PPA daily through SMS and WhatsApp.

Evidence available with the enquiry team showed that the rate announced after mutual discussion between the competitors was the one that actually prevailed in the market and that the rate of day-old broiler chicks was the same for all hatcheries. For example, on 26 April 2021, the official appointed as the focal person for coordinating rates messaged to another hatchery "Rs.82.5 for three days". When checked, the market information on day-old broiler chicks rates showed that the actual rate was Rs.82.5 for the next three days.

PPA was also found in, *prima facie,* violation of Section 4 of the Act, as its official was also a part of the WhatsApp group and announcement of rates through SMS and was aware of the pricing discussions and announcements.

It appeared that the companies were making a collective decision on prices which culminated in the announcement of a single price by a designated official. This*, prima facie,* price fixing arrangement between competitors clearly violated Section 4 of the Act.

It was observed that the month-wise average prices of day-old broiler chicks fluctuated widely during the year (2020-21) between the range of Rs.20.46/chick (minimum) to Rs.79.74/chick (maximum), and the share of day-old broiler chicks in total cost changed accordingly. Its average share in cost was 17% throughout the year, and when day-old broiler chick was priced at Rs.79.74, its share in total cost per kg of meat was 24.10%.

The other major cost component was poultry feed which accounts for approximately 68% of cost of production of chicken. In May 2021, the Commission found, *prima facie,* cartelization by poultry feed companies and issued show cause notices, leading the enquiry team to conclude that approximately 85% of the total input cost for broiler was artificially increased/controlled by, *prima facie,* cartels. The feed mills had obtained stay orders from Lahore High Court against the show cause proceedings.

Most of the hatcheries involved in the, *prima facie*, cartel were vertically integrated and involved in the entire poultry supply chain, from breeding to the production of poultry feed.

Following the findings of the enquiry report, the Commission decided to issue show cause notices to poultry companies involved in the production and sale of day-old broiler chicks for , *prima facie*, violation of Section 4 of the Act.

FINDINGS OF THE ENQUIRY REPORT

IN THE MATTER OF
ANTI - COMPETITIVE ACTIVITIES IN THE POULTRY SECTOR

COMMISSION TOOK NOTICE OF CONCERNS RAISED THROUGH

PAKISTAN CITIZENS PORTAL

- Drastic increase in the prices of broiler chicken, table eggs, and day-old broiler chicks
- From March 2020 to May 2021, chicken prices rose by 110 per cent, peaked at Rs 325 per kg (live chicken rate)
- Egg prices rose by 42 percent, peaked at Rs 197.76 per dozen in December 2020
- PPA's suspected role in cartelisation & price fixing

SEARCH & INSPECTION

- Two CCP teams conducted search of PPA office & a major poultry player
- Search teams impounded relevant print and electronic record

OVERVIEW OF THE SECTOR

1,459	**1,657**	**6.64**	**88**	**1.2**
MILLION TONS	MILLION TONS	KGs ANNUALLY	EGGS ANNUALLY	BILLION
Chicken meat annual consumption (2019-20)	Chicken meat production (2019-20)	Per capita consumption of chicken	Per capita consumption of eggs	Day-old Broiler Chicks (DOC) annual production

SUPPLY CHAIN

Feed Mills & Poultry medicines & vaccines

Breeders (Parent stock) → Hatcheries (DOC for broiler & layer)

Broiler Farms

Layer Farms

** Poultry feed, vaccines and medicines are its ancillary or allied sectors*

FINDINGS OF THE ENQUIRY COMMITTEE

- Enquiry Committee has found that prices of day old broiler chicks (DOC) are being fixed by a cartel of eight (08) undertakings over a two year period from 2019 to June 2021.

1

08 undertakings account for approx

80%

OF ALL PRODUCTION

2

Rates conveyed are for:

RAWALPINDI
LAHORE
FAISALABAD

3

Rates were conveyed to other undertakings and PPA on a daily basis through

SMS & WHATSAPP GROUP

4

DAY OLD BROILER CHICKEN AVERAGE SHARE *in total cost per kg of meat was* **17%** *throughout the year and* **WHEN DOC WAS PRICED AT RS.79.74** *its share in total cost per kg of meat was* **24.10%**

5

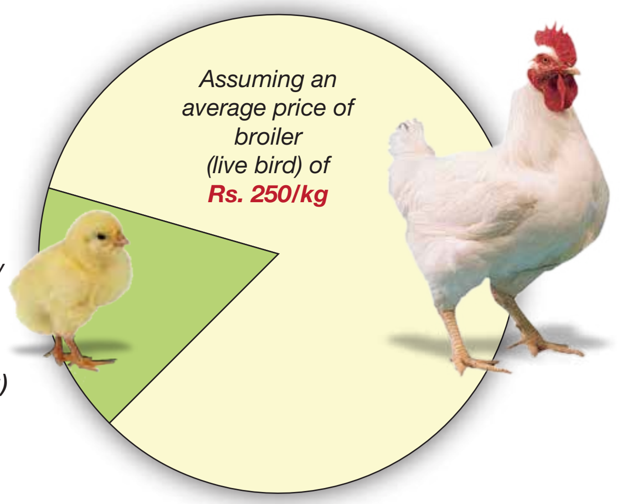
PPA WAS ALSO FOUND INVOLVED *in pricing discussions and announcements*

6

DOC PRICES FLUCTUATED WIDELY *during the year (2020-21) between the range of* ***Rs.20.46/chick*** *(minimum) to* ***Rs.79.74/chick*** *(maximum)*

IMPACT OF PRIMA FACIE CARTELIZATION

average cost of day old chick is approximately ***Rs. 43*** *(17% of Rs. 250/kg)*



17%	Rs. 43	average cost of day old chick is approximately
6%	Rs. 10 ↑	Increase in the price of day old chick
23%	Rs. 53	**New price of day old chick**
1,400 Million Tons		Annual poultry meat consumption

An increase of ***Rs. 10*** in the price of day old chick i.e. ***Rs. 53 (23%)*** when multiplied by the annual poultry meat consumption of ***1,400 million*** tons approximately results in

AN ESTIMATED CONSUMER LOSS OF

Rs.13.6 Billion

ENQUIRY COMMITTEE RECOMMENDATIONS

- *The Enquiry Committee recommended to consider initiating proceedings under Section 30 of the Act against all those hatcheries and PPA involved in cartelization.*
- ***SHOW-CAUSE NOTICES*** *decided to be issued to poultry feed companies involved in the prima facie violation of Section 4 of the Act.*

ENQUIRY

Industry Players Found Colluding on Tractor Prices

The Commission initiated an enquiry after suo motu taking notice of several concerns raised on the Pakistan Citizens Portal about the drastic increase in the prices of tractors by the tractor manufacturing companies. The price surge was noted despite a subsidy relief on sales tax granted by the government to the tractor industry. The complaints also highlighted a substandard build quality of tractors, resulting in frequent breakdowns.

The Commission carried out enter and search inspections of the two leading tactor manufacturers in September 2021 and impounded important data including relevant record, documents, meeting minutes and computer-stored information.

The tractor industry in Pakistan is relatively small, with just two major players competing in the market. Tractors are primarily used for two purposes: (i) agriculture for ploughing and sowing; and (ii) haulage purposes (construction, transportation etc.). Collusion between the market players seriously harms competition in the market besides impacting the government's effort to boost agricultural output.

As per the enquiry report, the tractor industry in Pakistan appeared to have a duopoly market structure and divided into four categories i.e. (i) 50 to 55 HP (ii) 60 to 65 HP (iii) 75 HP and (iv)85 HP. Among the two manufacturers, the leading one has a 70% market share while the other has 29% market share for FY 2020-21. The duo enjoyed a collective market share of 99 percent.

The report underscored that the tractor industry is over 90 percent localized, and there are hardly any technological advancements by the tractor manufacturers. Thus, the price raised by the market leader followed by the second biggest market player in close succession, and similar quantum indicated the possibility of price coordination between the tractor manufacturers.

It was further revealed that the clauses of 'Provisional Booking Orders' of both the manufacturers were identical and exploitative which, ***prima facie***, was unfair to the consumers in contravention of Section 3(1) & 3(3) (a) of the Act. Moreover, both the manufacturers were, ***prima facie***, involved in coordination and collusive decision making with respect to prices of tractors for various models in violation of Section 4(1) & (2) (a) of the Act.

As per the, ***prima facie***, evidence, the two tractor manufacturers were also found to be involved in an agreement of controlling supply of tractors in the relevant market in coordinated manner which is tantamount to a violation of Section 4(1)(2)(c) of the Act. One of the manufacturers had also entered into agreement with its dealers across Pakistan for the imposition of restrictive trading conditions amounting to "Resale Price Maintenance" (RPM), thus, ***prima facie***, violating Section 4(1)(2) (a) of the Act.

In light of the findings, the Commission initiated proceedings under Section 30 of the Act against the two manufacturers.

Search & Inspection Conducted at Tractor Manufacturers' Premises

As part of an ongoing investigation against tractor manufacturers for, ***prima facie***, violation of Sections 3 and 4 of the Act, the Commission carried out search inspection of the premises of the two leading tractors manufacturers in Lahore and Karachi.

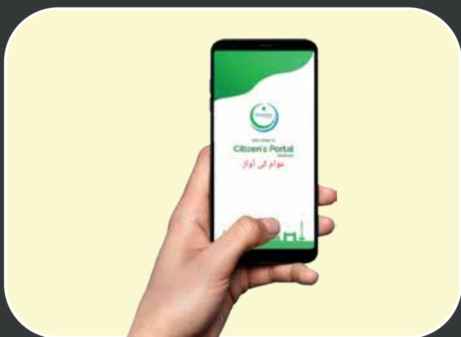
The search inspections were carried out under Section 34 of the Act. Both the undertakings fully cooperated by providing the relevant record, documents, meeting minutes and computer-stored information to the two search teams.

The search inspections were carried out to see if the tractor manufacturers were involved in the alleged anti-competitive activities such as collusion and collective decision making with respect to price hike of tractors, undue shortage despite excessive capacity, identical clauses in the PBOs of both companies, and RPM.

FINDINGS OF THE ENQUIRY REPORT

IN THE MATTER OF -

INCREASE IN PRICES OF TRACTORS BY TRACTOR MANUFACTURERS



1 COMMISSION TOOK NOTICE OF CONCERNS RAISED THROUGH PAKISTAN CITIZENS PORTAL

- Drastic increase in the prices of tractors by the tractor manufacturing companies
- Substandard build quality of the tractors resulting in frequent breakdown

2 SEARCH & INSPECTION

- The Commission conducted enter and search inspections of the premises of Millat Tractors Ltd (MTL) Lahore and Al-Ghazi Tractors Ltd (AGTL) Karachi on September 02, 2021.
- The data impounded comprised the relevant record, documents, meeting minutes and computer-stored information.

3 SUPPLY CHAIN

Provisional Booking order (PBO) is placed at dealership and customer copy from dealer is obtained

Customer

Private

Authorised Dealership

Tractor delivered to customer

Booking order is forwarded to the company along with payment instrument

Tractor delivered to

- Amount credited in the company's account
- Sales order is generated

Company

* Supply chain of Tractor Manufacturers in Pakistan (FY 2020-21)

4 OVERVIEW OF THE SECTOR

Operational tractors in Pakistan are around
612,000 units

Average annual sales for tractors around
50,000 units

Annual installed capacity of manufacturing around
100,000 units

Highest ever sales recorded in FY 2017-18
70,887 units

FY 2020-21

Market Share of market leaders & their dominance

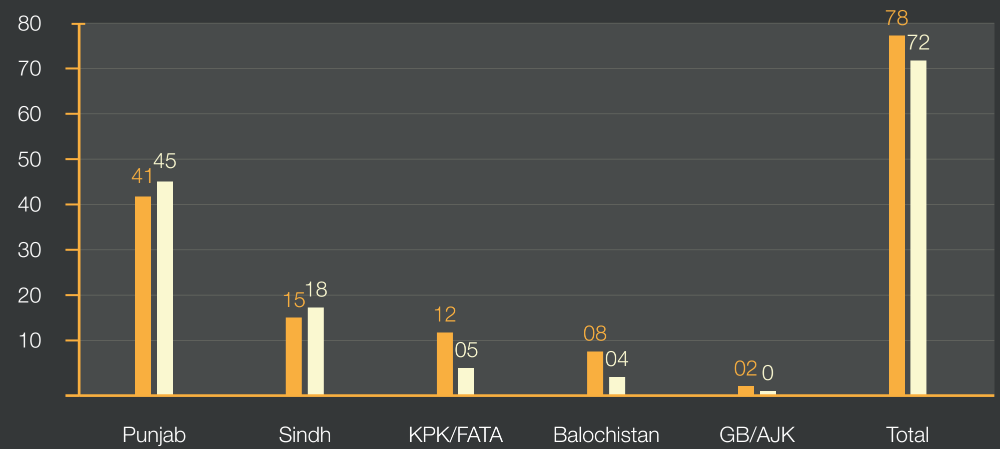
70%
35,571 units sold
MTL IS DOMINANT IN
50 to 55 HP
60 to 65 HP
75 HP
85 HP
Millat Tractors Ltd (MTL)

29%
14,881 units made
AGTL IS DOMINANT IN
50 to 55 HP
60 to 65 HP
75 HP
Al-Ghazi Tractors Ltd (AGTL)

1%
229 units sold
Orient Automotive Industries Private Ltd

Dealerships of Companies across provinces

Source: Official Websites of MTL & AGTL



5 FINDINGS OF THE ENQUIRY REPORT

Abuse of Dominant Position

The analysis of the "Provisional Booking Orders" (PBOs) of MTL and AGTL reveal that there exist exploitative and identical clauses which, prima facie, being unfair to the buyers are in contravention of Section 3(1) read with Section 3(3)(a) of the Act

Fixing and Coordination of Price

Both, MTL and AGTL are involved in coordinated and collusive decision making with respect to prices of tractors for various models

Controlling the Quantity Supply

MTL and AGTL entered into arrangement/agreement of controlling supply of tractors in the relevant market in coordinated manner

Restrictive Trading Conditions

MTL by entering into agreement with its dealers across Pakistan for the imposition of restrictive trading condition amounting to "Resale Price Maintenance" (RPM)

6 ENQUIRY COMMITTEE RECOMMENDATIONS

In light of the findings, the Enquiry Committee recommended the Commission to consider initiating proceedings under Section 30 of the Act against MTL and AGTL.

ENQUIRY

Enquiry in Edible Oil & Ghee Industry Resumed at Court Directions

The Commission resumed its enquiry in the cooking oil and ghee sector cartelisation after the Honourable Supreme Court of Pakistan admitted for hearing its leave to appeal against, and suspended, the decision of the Honourable Islamabad High Court dated 14 September 2021.

On 30 July 2020, the Commission, taking notice of an unexplained increase in the retail prices of vegetable oil and ghee, initiated an enquiry under Section 37 (1) of the Act to ascertain, ***prima facie***, violations of Section 3 and/or Section 4 of the Act. The increase in ghee/cooking oil prices was unusual as the palm oil prices, the primary raw material in its manufacturing, witnessed a downward trend internationally during January - May 2020.

The enquiry team sought information and relevant data from the industry players. Upon non-cooperation from some companies in sharing the data, the Commission passed a 'Call for Information' order under Section 36 of the Act in November 2020. However, one of the companies, Dalda Foods, obtained a stay order from the Honourable Islamabad High Court against the Section 36 order for providing information to the Commission on 18 November 2020. Later, the Honourable Islamabad High Court through its order dated 14 September 2021 ruled in favour of the petitioner. The Commission immediately filed a leave to appeal against the order before the August Supreme Court of Pakistan and the case was fixed for hearing on 22 November 2021.

The August Court granted leave to appeal to the Commission to consider the various important legal questions which had arisen in relation to the impugned judgment. In the meantime, the Honourable Supreme Court suspended the operation of the judgment of the Honourable Islamabad High Court till the final decision of the Commission's appeal before the August Court. Accordingly, the Commission shall resume its enquiry in relation to the cooking oil and ghee industry.

It should be noted that that on 8 July 2021, the Commission also carried out four search and inspections on the offices of Pakistan Vanaspati Manufacturers Association (PVMA) in Islamabad, Lahore and Karachi, and impounded several documents and computer-stored information to assist in its enquiry.

The Commission resumed its enquiry in the cooking oil and ghee sector after the Honourable Supreme Court of Pakistan admitted for hearing its leave to appeal against, and suspended, the decision of the Honourable Islamabad High Court dated 14 September 2021

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EXEMPTIONS

WERE GRANTED UNDER **SECTION 5** OF THE ACT IN VARIOUS SECTORS BETWEEN JUL - DEC 2021

ENQUIRY

FoodPanda Being Probed for Suspected Abuse of Dominance

The Commission initiated an investigation to see whether the online food delivery service platform/aggregator, Foodpanda, abused its dominant position and violated Sections 3 and Section 4 of the Competition Act in the market of online food delivery platforms.

The Enquiry Committee will also review and place before the Commission, its findings, whether the exemption granted (for loyalty Agreements) to Foodpanda in April 2019 for the period of three years is impeding competition in any manner in light of the concerns highlighted by various market players.

The enquiry was initiated under Section 37 of the Act on the formal complaints filed by Foodpanda's competitor, M/s Cheetay Logistics Pakistan Limited on 4 May 2021, and the All Pakistan Restaurant Association (APRA) on 10 June 2021. Formerly, a complaint was also filed by another online food aggregator, Careem Networks Pakistan (Private) Limited, pertaining to the exemption granted to same aggregator in 2019.

In a preliminary fact-finding exercise, the Commission's Cartel and Trade Abuse Department found that Foodpanda seemed to have a dominant position in the market of online food delivery platforms with a considerable amount of admitted volume of 100,000 per day food orders from different restaurants/outlets/food chains across Pakistan. Regarding the alleged abuse of dominant position, the concerns inter alia included: charging exorbitant commissions, offering fidelity rebates, discriminatory practices, setting out various discounts to exploit participants, and entering into exclusivity with parties through loyalty agreements. These concerns stretch the scope of abuse to being a barrier for the new entrants in the market of online food delivery platforms.

The enquiry report, once concluded, will be placed before the Commission for its decision.

SECTION 10

Preventing Deceptive Marketing Practices

§ 10 of the Act addresses deceptive marketing practices. The Commission's Office of Fair Trade investigates potential violations of the § 10 of the Act. In several orders, companies were asked to avoid advertising deceptive claims about their products.

Orders & Enquiries

PKR 2 Million Penalty Imposed on Cattle Feed Producer for Deceptive Marketing Practices

Nawaba Oil Industries, a manufacturer and trader of cattle feed, filed a complaint against Al-Hafeez Oil Mills and Muslim Corporations for allegedly copying the registered trademark and copyrighted packaging of its product "khal banola" and "wanda".

The Commission's enquiry found that the impugned trademark was registered with the Intellectual Property Organisation (IPO) in 2004. It found after examining the name, logo, designs and color scheme that the two firms had fraudulently used trademark, product labelling, and packaging of Nawaba's products, thus, *prima facie*, violating Section 10(1)(2)(a)(d) of the Act. On Enquiry Committee's recommendations, the Commission initiated further proceedings against Al-Hafeez Oil and Muslim Corporations under Section 30 of the Act.

During the hearings, one of the respondents expressed its willingness to resolve the matter based on mutual consent. Al-Hafeez Oil Mills promised to stop and dispose of the marketing material with similar trademark, product labelling, and trade dress. In view of the consent agreement between both undertakings, the Commission took a lenient view and disposed off the Show Cause Notice against Al-Hafeez Oil Mills. Whereas, Muslim Corporation failed to attend the proceedings exhibiting minimal or no participation.

The Order further stated that, marketers traditionally focus on designing advertising campaigns and other promotional strategies to promote a particular brand name. However, with evolving consumer preferences and laws, trade dress has become just as essential for making products and services distinctive and for building brand recall and loyalty. The cultural diversity of the Pakistan market makes a compelling case for the importance of product identification by way of packaging and visual impression. This has resulted in creating lookalikes of popular products with similar packaging in order to grab consumers' attention and generate demand for their own products in the market. Therefore, keeping in view the conduct of Muslim Corporation, the Commission imposed a penalty of PKR 2 Million, for fraudulently using trademark of Nawaba Oil Industries, in violation of Section 10 of the Act.

Moreover, the Order directed the Muslim Corporation to cease and desist the usage of copied trademark and similar packaging in future and to create a distinct trademark, packaging, marketing material etc. Furthermore, Muslim Corporation was directed to file a compliance report within thirty five (35) days from the date of this Order with the Commission.

DECEPTIVE MARKETING PRACTICS

" SAY WHAT YOU MEAN, SHOW WHAT YOU SELL "

CHAIRPERSON, CCP

"

Deceptive marketing practices have a direct impact on competitors and the public at large alike and therefore, it is in the interest of the general public and fair competition in the market that the undertakings be stopped from marketing their products in an unfair and misleading manner.

Disclosure of Redeemable Coupons in Paint Packs

Surveys Reveal Compliance by Paint Companies with CCP's Order

In 2012, the Commission while taking notice of the marketing practice of inserting redeemable coupons in paint packs used for household purposes falling within the category of decorative paints, passed an order declaring that the practice of omission of material information with respect to the tokens in paint packs amounts to misleading consumers; hence, it is deceptive and in violation of Section 10 of the Act. The order issued the following directions:

i. The promotional material or advertisements of the decorative paints to be modified to disclose the presence and the prize value of the token on each pack for the consumer.

ii. The disclosure should be made with bright colors distinct from the color of the packaging.

iii. The paint manufacturers will issue four advertisements / public notices in major newspapers of A4 Size during 60 days period making due disclosure to the public regarding the presence and price value of token.

iv. The public notice may be published individually or on collective basis by the paint manufacturers.

MARKET SURVEY:

To check whether paint companies were complying with its Order, the Commission conducted a series of surveys in the relevant market under section 28 of the Act. The first survey was conducted on 9, 10 December 2013, wherein it was revealed that out of the total 15 paint manufacturers only 4 companies followed the Commission's Order. So, proceedings under Section 38 of the Act were initiated against the 11 paint manufacturers and Show-Cause Notices were issued.

During the hearings held in June 2015, the paint manufacturers provided documents pertaining to the efforts being made to ensure compliance with the Commission's Order and further assured complete compliance in this regard.

On 31 March 2016, the Commission conducted second survey and found that five out of 11 paint manufacturers followed the Commission's directions while six were failed to do so.

While in third and fourth hearings, held in April, May 2017, the bench raised concern with respect to the availability of the old products in the market. In this respect, the bench allowed further six-months' time for the elimination of old stock from the market.

In the third survey conducted in December 2017 and January 2018, the remaining six paint manufacturers were still found to be non-compliant with the Commission's directions.

During the fifth, sixth and seventh hearings held between 2018 to 2020, manufacturers were directed to provide verifiable compliance reports, which were then analysed along with all documents available on record. Subsequently, the paint manufacturers were found to be in full compliance. Hence, no penalty was imposed on them.

Local Firms Stopped from Using Trademark of France-Based Firm

The Commission received a complaint from a France-based company, KENNOL Performance Oil, against four Pakistani firms, Kennol Petroleum, Dewan Oil Store, Techno Lube and Japan Lube Petroleum for copying their product packaging of 'KENNOL ULTIMA 20W60'. KENNOL Performance Oil claimed that their product was registered in Pakistan with the Intellectual Property Organization (IPO) and they had not authorized any other firm to use it locally.

The Commission's enquiry concluded that three out of the four respondents i.e. Kennol Petroleum, Japan Lube and Dewan Oil Store were counterfeiting the packaging style and design of KENNOL Performance in, ***prima facie***, violation of Section 10. However, violation by TechnoLube could not be established. The Commission issued show cause notices to Kennol Pertroleum, Dewan Stores and Japan Lube.

During the hearings, all the three undertakings adopted a compliant oriented approach, regretted the alleged activity, and expressed their inability to pay any penalty given the size of their businesses. They made firm commitment to comply with the Competition Law and avoid any violation in future. They also agreed to alter their company names and close down the websites containing the alleged trademark.

The Order directed them to stop using KENNOL's trademark and ensure that their products were sold in distinct manner with a different overall layout, design, shape, font and color scheme. They were given six weeks time to shut down their website.

The company was also informed that non-compliance with the Commission's directions shall make them liable to pay a penalty of PKR 1 Million each for contravention of Section 10(2)(a) of the Act and PKR 1 Million each for contravention of Section 10(2)(d) of the Act. The Commission's Registrar was also directed to provide copies of this order to Pakistan Telecom Authority (PTA), Pakistan Electronic Media Regulatory Authority (PEMRA) and Securities and Exchange Commission of Pakistan (SECP) along with a request to take necessary steps to ensure that neither website or advertisement containing the deceptive trademark nor the resembling company name would be used in future.

Building Material Manufacturers Refrained from Making Deceptive Comparisons

Dadex Eternit filed a complaint that Qasim Iron Works was falsely claiming about its corrugated cement sheets, 'Dura Sheet', to be superior to 'Dadex' in terms of quality, efficacy and fitness, without providing any evidence. The deceptive content was circulated through website and various social media platforms including Facebook page, YouTube, and WhatsApp.

The Commission's enquiry concluded that the claim 'Dura Sheet is superior to Dadex, in terms of quality, efficacy and fitness' was tantamount to disseminating false and misleading information to the consumers. It also lacked a reasonable basis related to the quality of goods. It was also revealed that Qasim Iron Works used a platform of 'Shayan Qasim Iron (SQI)' and defamed the products of Dadex Eternit Limited.

Qasim Iron Works failed to provide reasonable basis for making the said claim, hence, constituted a, *prima facie*, violation of Section 10. On the Enquiry Committee's recommendations, a Show Cause Notice was issued to Qasim Iron Works and was called for hearing.

The Order stated that in 2017, Qasim Iron Works created a new entity i.e. SQI, whereby the administrative rights, assets and liabilities of SQI were transferred to Mr. Shayan Qasim, son of the owner of Qasim Iron Works. Henceforth, SQI became a distributor and was engaged in the sale of 'Dura Sheet'.

The Order further stated that the official website of Qasim Iron Works was www.duraroof.com.pk, whereas the deceptive videos were shared on SQI's website i.e. www.shayanqasimiron.com.pk. Furthermore, SQI was sharing deceptive videos through their Facebook page. On the other hand, the YouTube channel was handled by a random person, Mr. Ali Ahsan. Since, Mr. Ahsan was neither an employee nor a distributor, his claim was not rebuttable. Nonetheless, it appeared that the said dissemination was carried out by SQI, the distributor of Qasim Iron Works.

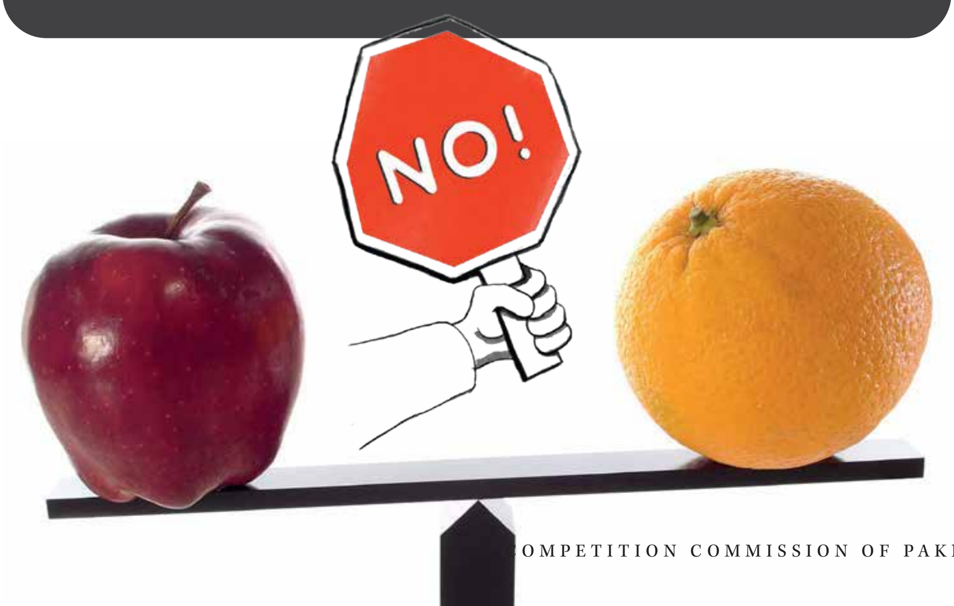
While taking a lenient view, the Commission did not impose any penalty, however, it issued certain directions to Qasim Iron Works to comply with the Competition Law.

Compliance Directions for Qasim Iron Works

- *Publish/upload, within 7 days from the passing of this Order, a notice on its website (www.duraroof.com.pk) to retract the false and misleading assertions made by its distributor, and to submit a compliance report before the Registrar of the Commission within 7 days of publishing the same. The notice shall be published prominently so that it is visible to all visitors to the website and shall remain visible for a period for not less than 90 days.*

- *Refrain from producing or disseminating any information in the future through any means which may constitute violation of Section 10 of the Act.*

- *Obtain written commitments from all its present and future (if any) distributors and agents which are involved in the sale and marketing of its products, stating that they will not disseminate any deceptive information. Additionally, a complete list of distributors and agents shall be submitted within 45 days of the passing of Order.*



Unhampered **COMPETITION** is a pre-requisite for enduring economic success

The claims of 'exclusively providing the best quality product with warranty', made by Akzo Nobel lacked reasonable basis and was likely to cause harm to business interest of other competitors

Unsubstantiated Warranty Claims

Action Initiated Against Paint Firms

ENQUIRY

Diamond Paint Industries filed a complaint alleging that Akzo Nobel Pakistan was getting undue competitive advantage by making certain unrealistic claims that were distorting competition in the market. Diamond requested the Commission's intervention to ensure that Akzo Nobel stops the alleged anti-competitive practice.

Diamond alleged that Akzo Nobel was claiming to provide warranty of six years for one of its products, 'Weather Shield', in the absence of any written policy. As per details provided by Diamond, the claims about six years warranty were published on the packaging and the shade cards, yet the company neither had a codified policy nor was providing requisite information to consumers as to how to avail the said warranty. Making such unsubstantiated claims with great fanfare was putting Akzo Nobel's competitors at competitive disadvantage.

The Commission's enquiry found that in the United Kingdom, Akzo Nobel was selling and advertising its product, ICI Dulux Weather Shield, with proper codified/written warranty policy.

The enquiry observed that in Pakistan, it is not mandatory for businesses to provide warranty for their products. The businesses may, however, voluntarily offer product warranty to their customers.

The Commission's enquiry team also conducted the market survey to ascertain facts about the warranty offering by companies. Most of the businesses visited were not offering warranties for the products. They stated that manufacturers did not provide them with any such warranty. However, Akzo Nobel shared the details of its Customer Relationship Management System in which 433 out of 643 warranty complaints were entertained with a compensation value of PKR 12.33 million.

The Enquiry Committee concluded that advertising the claims, '6 years and 7 years warranty' and 'exclusively providing the best quality product with warranty' by Akzo Nobel without mentioning the terms and condition was false and misleading and a, *prima facie*, violation of Section 10.

In view of findings, the Commission initiated proceedings under Section 30 of the Act against the Akzo Nobel Pakistan.

Pharma Company Faces Action for Making False Claims

ENQUIRY

Renacon Pharma filed a complaint that 3N-LIFEMED Pharmaceuticals was advertising a fake Conformité Européene (CE) Mark and Quality Management System (QMS) certification from a non-accredited company in Islamabad. The complainant claimed that by representing fake QMS certification and a fake CE Mark, 3N-LIFEMED had achieved a rapid business growth by selling its products in the hospitals in Pakistan. This caused harm to the business interest of Renacon Pharma, which had the authentic QMS certification from Conformité Européene.

The enquiry revealed a false representation of CE mark and QMS certification on the packaging of Part-A and Part-B of Haemodialysis concentrates by 3N-LIFEMED Pharmaceuticals. These concentrates are widely used as life-saving product for the dialysis of kidney-failure-patients, where Part-A is a solvent and Part-B is a solute and both must be mixed to the patient's requirement before being administered.

The enquiry concluded that for obtaining CE mark the services of American Global Standards (AGS) Pakistan, a subsidiary of American Global Standards, were acquired. As CE mark provided for conformity with the European Standards, therefore, AGS did not possess the authority to accredit any independent body for assessment for issuance of a CE mark. By representing a fake CE mark, for both Part-A and Part-B, misleading information was disseminated among consumers i.e., govt. hospitals and privately owned dialysis centres. Hence established, *prima facie*, violation of Section 10 (2) (b) of the Act.

It was also highlighted that the claimed QMS certification and ISO 9001:2008 certification was not possessed at the time of complaint. Therefore, the display of false QMS certification provided a competitive advantage of being able to bid on tenders at par with other competitors, who have invested time and money to obtain valid certification. As the conduct could harm the business interest of other competitors thus constituted, *prima facie*, violation of section 10 (2) (a) of the Act.

The Commission observed that the use of unauthorized and false CE mark and QMS Certification was in total disregard of the global standardization and certifications.

Considering the findings, the Commission initiated proceedings against 3N- LIFEMED Pharmaceuticals under Section 30 of the Act

SCN against RB Pakistan Disposed Off

ENQUIRY

Colgate Palmolive Pakistan filed a complaint against Reckitt Benckiser (RB) Pakistan for using in-store communications to advertise its hand-wash and sanitizers being "Tested Effective Against Covid-I9 Virus Proven" and "100% Sure" with fine print disclaimers such as "Based formulation has been tested". It was also alleged that Reckitt Benckiser has not tested its actual products manufactured, produced and/or sold in Pakistan against Covid-19 virus.

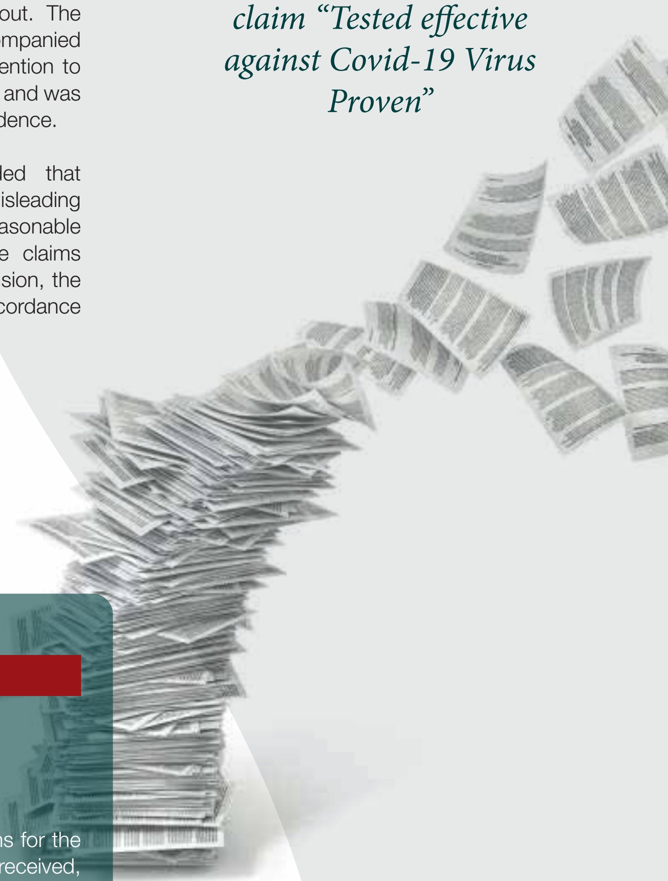
The Enquiry Committee found that the said products were tested by Microbac Laboratories on microbicidal actives to ascertain their virucidal efficacy against the Covid-19 virus. The test which took place in Sterling, VA, USA and was published in May 2020. As per the study, Hand Sanitizer Gel was tested against SARS-CoV-2 and was able to achieve a ≥ log10 reduction of 4.2, which equates to a 99.99% reduction of germs. As for Liquid Handwash, the study showed that the product achieved a ≥ log10 reduction of 3.1, which equates to a 99.9% reduction of germs.

In view of the abovementioned results of the study, wherein RB's products were tested against SARS-CoV-2, it was clear that there were recognizable substantiations based on scientific evidence for the claim "Tested effective against Covid-19 Virus Proven", and the allegation for not being tested against the Covid-19 virus was not made out.

Likewise, allegation for using an absolute claim, to be '100% sure', was ruled out. The Commission held that the claim was accompanied by an asterisk that drew consumer's attention to the disclaimer 'in removing 99.9% germs' and was too in line with the Commission's jurisprudence.

The Enquiry Committee concluded that RB was not distributing false and misleading information as they provided a prior reasonable and recognizable substantiation for the claims made. In view of the findings and conclusion, the Commission disposed-off the case in accordance with the law.

RB's products were tested against SARS-CoV-2, it was clear that there were recognizable substantiations based on scientific evidence for the claim "Tested effective against Covid-19 Virus Proven"



SCN against Paint Manufacturers Disposed Off

ENQUIRY

AkzoNobel Pakistan filed a complaint that Master Paint Industries and Brighto Paints were misrepresenting themselves as 'safe and healthy paints.' It was also alleged that both the manufacturers did not disclose material information that they contained lead and mercury in excess of the allowed limits.

The Enquiry Committee maintained that the matter pertained to the enforcement/compliance of the prescribed standards by Pakistan Standard and Quality Control Authority (PSQCA) under the PSQCA Act No. IV of 1996. The Authority grants a license for the use of Pakistan Standard Mark, ostensibly after following the due process under the respective legislation.

The Enquiry Committee also revealed that both manufacturers had valid PSQCA license and PSQCA is mandated to conduct periodical testing to enforce its standards. Therefore, it was deemed fit to engage the PSQCA's Department of Conformity Assessment and requested to share detailed results their periodical inspections for the last three years. According to the reports received, both manufacturers were found in complete compliance with the applicable standards of PSQCA. Moreover, it was also observed that the content of Lead, Cadmium and Chromium were also found within the permissible limit.

The Enquiry Committee found that the statements made by Master Paints were not misleading or false. Likewise, non-disclosure of material information by Brighto Paints was also not proved as they also found to be in conformity with the applicable standards of PSQCA. Moreover, The Commission's enquiry also ascertained that matters pertaining to the maintainability and enforcement of PSQCA's standards is beyond the Commission's mandate. Nonetheless, both manufacturers were not involved to be violating section 10 of the Act

Based on the findings, the Commission disposed off the matter in accordance with the law.

The Commission's enquiry also ascertained that matters pertaining to the maintainability and enforcement of PSQCA's standards is beyond the Commission's mandate

SECTION 11

Mergers & Acquisitions

§ 11 of the Act addresses mergers. No undertaking shall enter into a merger which substantially lessens competition by creating or strengthening a dominant poisition in the relevant market

Packages Limited's Acquisition of Tri-Pack Cleared after Phase-II Review

In February 2021, the Commission took notice of a transaction that appeared on the Pakistan Stock Exchange's portal regarding Packages Limited (PL)'s intention to acquire the shareholding of the Tri-pack Films Limited (TFL), which is owned by Mitsubishi Corporation (MC). After thorough correspondence with the TFL and PL, the latter filed the pre-merger application with the Commission.

PL, the acquirer, is a public limited and investment holding company that deals in packaging material, tissue and consumer products, industrial inks, insurance and power generation. MC, the seller, is a conglomerate that deals in the industrial material, natural gas, minerals resources, finance, machinery and petroleum and chemical solutions. Meanwhile, TFL, the target company, manufactures and sells Biaxially Oriented Polypropylene films (BoPP) and Cast Polypropylene Films (CPP) films that are best suited for food & beverage applications as well as non-food applications like over-wrapping, lamination and bag making etc.

After completing the initial review, the Commission issued its Phase-I Order and raised competition-related concerns regarding the subject merger. It was further determined that the proposed transaction met the presumption of dominance as determined in Section 2(1)(e) read with the Section 3 of the Act, therefore, required a more detailed assessment under the Phase II Review.

During the hearings, it was brought to the Commission's notice that MC decided to exit Pakistan and contended that the transaction would not improve the PL's dominant position as it was already dominant in the relevant market. The target company has a large market share and PL has management control of the target company before the transaction. Furthermore, the target company had a policy in place called the "related party transactions policy," which ensured that related party transactions were carried out at an arm's length basis. According to one theory of harm, as stated in the Order, the transaction raised the likelihood that, following the merger, merging parties and their competitors would be able to possibly coordinate their behaviour in an anti-competitive manner thus, would potentially drive smaller firms out of the industry.

After conducting a detailed assessment and particularly considering the 'related party transactions policy', the Commission found that the transaction shall not adversely impact the competition in the relevant market. The Commission also found no history of collusion or any other anti-competitive practices in the relevant market. Therefore, after an in-depth phase-II review, the Commission cleared the proposed acquisition of TFL by Packages Limited from the Mitsubishi Corporation.

The Commission's Order further made it clear that the approval of the acquisition was based on the submitted undertakings that the merger parties would continue their operations at arm's length basis and would not abuse their dominant position i.e. in strict compliance with the Act. Otherwise, the Commission, under Section 11 read with sub-section 14 of the Act, reserves the right to assess and review the effects of the transaction on the relevant markets on its own or upon the application by any other concerned undertaking(s).

Mergers & Acquisitions in various Sectors between Jul - Dec 2021

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Acquisitions

02
Joint Ventures

08
Mergers

SECTORS

1. Agriculture
2. Aviation
3. Capital Markets
4. Cement
5. Chemicals
6. Electrical Equipment
7. Information Technology
8. Insurance
9. Internet
10. Leasing
11. LNG
12. Media
13. Oil & Gas
14. Packaging
15. Petro-Chemicals
16. Pharmaceutical
17. Real Estate
18. Steel
19. Sugar
20. Telecom
21. Terminal Services
22. Textile

Section 28(b)

To conduct studies for promoting competition in all sectors of commercial economic activity

Pilot Study Recommends Federal & Provincial Govts to Ensure Uninterrupted Supply of Essential Commodities

Agriculture constitutes a major chunk in both the economy and employability. It accounts for 19.2 percent of the GDP and employs 38.5 percent of the labour force. It was noted that the prices of certain essential commodities vary greatly from farm gate to mandis and finally, retail shops. Currently, there is no uniform pricing mechanism that would allow for accurate estimation of price changes and seasonal variation. Considering the multifaceted significance and concerns of erratic increase in prices by National Price Monitoring Committee (NPMC), the Commission initiated a study for a detailed assessment regarding supply chain distortions, pricing mechanisms, possible anti-competitive practices, and other factors influencing prices across the supply chain.

The study, "Assessment of Supply Chain from Farm gate to Retail-(Tomato & Onion)", revealed that the flow of essential food commodities from one market to others is mainly controlled by the commission agents, who are working as an investor, non-institutional financer, auctioneer, as well as wholesaler. The major factors which influence availability and pricing include:

- *supply gaps,*
- *perishability and shorter shelf life,*
- *lack of grading and packaging,*
- *manipulation by commission agents,*
- *level of enforcement of price regulations, and*
- *inadequate awareness about prices and availability.*

The study's key findings revealed that a variety of factors are disrupting supply chains, distorting competition, exploiting farmers, and adding inefficiencies to the economy. The significant price variations have been observed from farm gate to retail across all studied districts. The actual retail prices are significantly higher than the prices which were obtained after adding overheads, transportation, and profit margins to the auction price, as per assumptions by the provincial governments.The Commission recommended that better coordination between federal and provincial governments can help prevent distortions in price and supply chain. For instance, timely sharing of data can prevent price manipulation. Consequently, increased awareness among market players about the availability of produce and its prices will foster competition. This coordination between federal and provincial governments is necessary to ensure an uninterrupted supply of the essential commodities. The production forecast, glut, and stress situation of the crops should be considered at each provincial level before making such decisions.

SHORT-TERM RECOMMENDATIONS (6 MONTHS TO 1 YEAR)

The recommendations included effective supply chain management. The commission agents or the beoparis are the primary controllers of the supply chain and movement of vegetables from one Mandi to other. The study team observed during the survey that the same lot of bulk onion (usually a truck) is sold multiple times starting from one Mandi, to the other and then to another. Timely data sharing among provinces, districts, and their public availability may be useful to identify the supply gaps. The AMIS by Punjab and Mandi App by the KP government could be effectively utilized for sharing information publicly. The district administration should closely observe and ensure that such information is openly available in Mandis so that traders could ensure timely supply.

MEDIUM-TERM RECOMMENDATIONS (2 TO 3 YEARS)

The recommendations revealed that most of the post-harvest losses could be prevented through adequate training of farmers regarding the appropriate harvesting time, techniques, and the use of packing materials for transportation to Mandis. The role of provincial agriculture extension departments is pivotal in providing such training and increasing awareness among farmers on strategies to reduce post-harvest losses. The Commission pointed out that the farmers are exposed to exploitation by the commission agents. The provincial government may plan to provide easy and interest-free loans to farmers. Kissan cards may be a good initiative in this regard.

Moreover, crop reporting is of great importance in the planning process. Crop reporting requires comprehensive reforms which may be planned in the medium to long term. The medium-term reforms include capacity development, integration and triangulation of the information with other departments like revenue, agriculture extension, and SUPARCO.

LONG TERM RECOMMENDATIONS (4 TO 10 YEARS)

The quality inputs like seeds, fertilizers, water and pesticides are primary determinants of good production and high yield. Pakistan is importing nearly 80% of the tomato seeds and 40% onion seeds. The respective provincial administrators must assure the supply of seeds of those types that are suited to the climatic conditions of each ecological zone. Similarly, the provincial government should look into the excessive use of pesticides which may be a threat to food safety. It is necessary to promote and subsidize the seeds of disease-resistant agricultural varieties.

The post-harvest losses in tomato and onion are significant. In the regional countries, India has adopted useful strategies to reduce the postharvest losses which may be instructive for Pakistan. The provincial governments may consider enhancing cold storage facilities through Public-Private Partnerships. The private sector should be encouraged to build cold storage facilities. These facilities may have only a limited impact on tomatoes but could be a very useful investment for other perishable essential commodities like potatoes, onions, etc. However, together with other strategies, these facilities could play a significant role in reducing post-harvest losses.

The study also highlights that the introduction of new generation packaging materials can help reduce losses. In addition, foldable plastic packaging or nestable containers could be introduced. India incentivized and introduced the use of plastic crates which proved very effective in reducing the post-harvest losses during packing and transportation. Pilot projects for new generation packaging materials may be launched by provincial agriculture extension departments. Currently, there is less than 1% processing of tomato and onion in the country. Although this is a long-term strategy, but improving the value addition and processing industry of tomato and onion can significantly help reduce post-harvest losses, deal with the glut and stress period of the produce, increase economic activity, create jobs and generate revenue for the country.

The study concluded that the government needs to create an enabling environment for the private sector and incentivize the processing industry. It can help raise awareness among consumers and consequently Bolster agricultural production.

Advocating the Law

§ 29 of the Act addresses Competition Advocacy. The Commission shall promote competition through advocacy which, among others, shall include creating awareness and imparting training about competition issues and taking such other actions as may be necessary for the promotion of competition culture.

23rd Competition Consultative Group (CCG) Meeting

Participants Briefed on CCP's Performance, Reports on E-commerce and SME Sector

The 23rd meeting of the Competition Consultative Group (CCG) was held in Karachi on 10 December 2021. The participants were briefed on the Commission's advocacy and policy initiatives in the e-commerce and SME sectors, the developments on legal fronts and the recent enforcement actions.

Along with the Chairperson Ms. Rahat Kaunain Hassan, and Members Ms. Shaista Bano, Ms. Bushra Naz Malik, Mr. Mujtaba Ahmad Lodhi, the session was attended by the senior-level officials from the regulatory bodies, corporate sector, SMEs, online trading platforms, Pakistan Stock Exchange (PSX), chambers of commerce, and consumer associations.

While briefing the participants about the Commission's performance, the Chairperson stated that the pace of enforcement has increased with the imposition of the highest ever penalty of around PKR 40 billion in the sugar sector. Moreover, several key enquiries are underway in important sectors. During the last year, the Commission has completed 28 enquiries, conducted 17 search inspections, and passed 12 orders.

Discussing the challenges overcome recently, she stated that the Commission has started receiving the 3% of the fee and charges collected by specific regulators (PTA, SECP, NEPRA, OGRA and PEMRA). Moreover, the Competition Appellate Tribunal is now functional, which shall aid in clearing the backlog of cases. The Chairperson also mentioned the general difficulty in concluding proceedings due to the parties continuously seeking injunctive relief from Courts even at nascent stages of an enquiry, such as a call for information and search and inspections. Besides that, presentations were given on initiated studies i.e. "Competition and Trade Practices Regulation in the Era of E-Commerce, Big Tech and Data Sciences" and "Improving Economic Efficiency in Small-and-Medium Enterprises in Pakistan" (which represent 2 key targets in the Commission's Strategic Vision 2021).

The study on e-commerce highlights possible competition concerns in the e-commerce/online platforms market, which may fall under Section 3 (abusive conduct by dominant platforms) and Section 10 (deceptive marketing practices) of the Act and analyzes regulation strategies in more developed countries across the globe as well as other countries in the Region. The Chairperson clarified that the CCP does not aim to become a data protection agency or over-regulate, a view which PSX and SECP senior officials endorsed along with applauding the said initiative. Instead, the study aims to provide guidelines serving as a minimum benchmark of basic disclosures companies should adhere to, to avoid deceptive marketing practices. The ultimate aim is to facilitate businesses and create a competitive, innovative, and fair marketplace for online businesses in Pakistan to promote growth and allow them to compete with other businesses/platforms globally.

Other industry participants stressed the need to maintain a balance where the onus/burden of compliance should remain on the seller.

The second study reviews the SME Policy Framework in Pakistan and based on two surveys concerning demand-side constraints and supply-side issues in SMEs' growth and challenges in SME financing, offers recommendations to the Government of Pakistan and other concerned entities focusing on competition aspects, i.e., to ensure a level-playing field for SMEs to compete, which shall lead to the growth of the SME sector. In this regard, the representative from the Banks Association highlighted that banking companies and SBP have collaborated to create an SME Asaan Finance Scheme (SAAF) to help provide financing to SMEs and PSX has also initiated the GEM Board, which has more lenient listing requirements and a lower listing fee for SMEs.

During the CCG meeting, certain other competition concerns were also highlighted relating to the polyester yarn industry, the membership mechanism of PASHA, milk prices (which the Commission clarified was already an ongoing issue) and the steel industry in relation to the cost of raw materials for the construction sector.

Advocacy Sessions with Small & Medium Enterprises (SMEs)

Small & Medium Enterprises (SMEs) are globally identified as the driver of economic growth and development. In Pakistan too, SMEs are a backbone of the national economy.

Under Section 29(b) of the Act, the Commission is mandated to review policy frameworks for fostering competition. In December 2020, the Commission focused on preparing policy recommendations for key stakeholders on improving the economic efficiency of SMEs. In this regard, data from the State Bank of Pakistan and 50 financial institutions was gathered to analyse the access to the availability of financial credit and services. Moreover, for a detailed demand side analysis, a survey methodology was adopted. For extensive data gathering and interactive discussions, 18 sessions were held with the trade associations and chambers of small businesses and industries in 11 cities of Pakistan.

Islamabad

1. Islamabad Chamber of Small Traders and Small Industry

ZOOM MEETINGS

2. Small and Medium Enterprises Development Authority (SMEDA) - Online
3. State Bank of Pakistan (SBP)
4. SME Bank
5. Development Financial Institution (DFI)
6. A commercial bank

Peshawar

1. Peshawar Chamber of Commerce & Industry

Sargodha

1. Sargodha Chamber of Small Traders & Small Industry

Quetta

1. Quetta Chamber of Small Traders & Small Industry

Lahore

1. Lahore Chamber of Commerce & Industry
2. Pakistan Chemical Manufacturers Association

Gujrat

1. Pakistan Electric Fans Manufacturers Association
2. All Pakistan Furniture Makers Association

Multan

1. All Pakistan Bedsheets & Upholstery Manufacturers Association
2. Multan Chamber of Commerce & Industry + All Pakistan Fertilizer Dealers Association

Faisalabad

1. Faisalabad Chamber of Commerce & Industry
2. Faisalabad Chamber of Small Traders & Small Industry + Jhang + Sargodha Chamber of Small traders and Small Industries

Rahimyar Khan

1. Rahim Yar Khan Chamber of Commerce & Industry

Hyderabad

1. HYB Chamber of Small Traders & Small Industry
2. HYB Chamber of Commerce & Industry

Karachi

1. Korangi Association of Trade & Industries, Karachi
2. Towel Manufacturers Association of Pakistan, Karachi
3. Pakistan Knitwear & Sweater Exporters Association, Karachi

Islamabad Chamber of Small Traders & Small Industries (ICSTSI)

ICSTSI is one of the pioneer chambers for the SME Sector in Pakistan representing the interest of local traders, markets and small industries of Islamabad. The session was attended by Malik Zaheer Ahmed, President, Mr. Muddassar Fiyaz Chaudhry, Vice President, Muhammad Abu Bakr, Executive Committee Member & Chairman SMEs, and Muhammad Iqbal Qureshi, Secretary General along with sixteen (16) other ICSTSI's members. The Commission's team briefed them about the main provisions of competition law.

The participants candidly discussed the problems faced by the small and medium businesses, particularly the small traders. They complained of the complicated and multiple taxation system, and exorbitant rents in the federal territory.

Peshawar Chamber of Small Traders & Small Industries (PCSTSI)

The session was attended by Mr. Adnan Jalil, president, Mr. Rehman Gul, Senior Vice President, Mr. Hassan Daud Butt, Chief Executive Officer, Khyber Pakhtunkhwa Board of Investment and Trade (KP-BOIT), women entrepreneurs, the representative of SMEDA, TDAP and members of the local business community in large number.

The participants discussed the problems faced by SMEs in Peshawar and sought the intervention of the relevant government departments to resolve their issues. The participants lauded the role of SMEDA, BOI and other government agencies in supporting and actively working with the local business community. They expressed their concern over the low ratio of SME financing by the commercial banks, which is stagnating the growth of SMEs. Stringent requirements of banks have made it almost impossible for SMEs to avail loans from banks. Resultantly, they are left with no option but to get private loans from individual lenders with heavy markups.

All Pakistan Furniture Maker Association (APFMA), Gujrat

The session at APFMA was attended by Mr. Ali Ansar Ghumman, former Chairman APFMA & President Gujrat Chamber of Commerce & Industry, Muhammad Afzal, former Chairman APFMA, Mr. Moeen Zafar Chaudhry from Pak Wood Furnishers, Mr. Sufyan Haider, Secretary General APFMA along with around 20 other members of the association.

The participants highlighted that the 34% spike in the industrial inflation post-Covid-19 and the imposition of a heavy regulatory duty of 25% on raw copper, posed a big challenge for the furniture manufacturers. Another concern raised was the establishment of the industrial estate for the businesses of Gujrat for which the land was provided in Sargodha thus making it an unviable option to move the machinery and manpower to a distant city.

The representatives of the Gujrat fan industry present on the occasion complained about the uncompetitive tenders floated by the government departments. They alleged that instead of defining density, thickness or quality, the tenders specified a certain brand thus restricting competition to a specific brand and excluding the other market players. Moreover, they also complained of excessive pricing by the freight operators.

The participants also suggested introducing the idea of wood farming on the national level to meet the high demand for furniture both at the local and international levels.

Lahore Chamber of Commerce & Industry (LCCI)

The session at LCCI was attended by Mr. Sajjad Afzal Sheikh, Executive Committee Member & Convener SME Committee, Mr. Rehmatullah Javed, SME National Expert FPCCI, Mr. Abdul Rafeh Iqbal, Business Manager Intercan Pvt ltd along with twenty (20) members of the Chamber.

They informed that LCCI provides an opportunity for its members to involve in Chamber's activities and meet government officials and leading businessmen both Local and International. LCCI always remains in consultation with government departments on various issues related to the business community, which provides opportunities for members to share their views and concerns. LCCI's one window smart services are the benchmark of excellence, where the member can avail exclusive services about several provincial and federal authorities.

The representative of the pharmaceutical sector highlighted that the cost of production has increased due to higher regulatory duties. Manufacturers are forced to use local raw material at higher prices making it equally expensive for the export market. Likewise, the imposition of 17% GST is another factor impeding the growth of small businesses. They also suggested the mapping of region-wise production capacity across Pakistan to address the real-time challenges faced by SMEs.

Pakistan Chemical Manufacturers Association (PCMA), Lahore

The session at PCMA Lahore was attended by Mr. Iqbal Kidway, Secretary General PCMA, Mr. Azhar Mian, CEO MZ International, Mr. Abdul Qayyum, CEO Chromatex, Mr. Mubeen Ahmed, CSR Engro Polymers, and ten (10) other senior members. The participants informed that chemicals are an integral part of almost all industries.

Highlighting the importance of chemicals, PCMA representatives informed that on daily basis, consumers buy thousands of chemical products ranging from household detergents to automotive paint, fertilizers to crop saving pesticides and pain-relieving medicines to life-saving drugs and vaccines. PCMA endeavours to achieve co implementing best practices.

The discussions revealed that the market size of India's chemical industry stands at $178 billion whereas Pakistan's market size is just $12 billion. The industry is heavily dependent on imports as the local industry meets only 7% of total demand. The sector has the export potential of around $5-10 billion, if paid due attention by the government. In the absence of any incubators and facilitators, government support is needed in the field of Research & Development. Moreover, the participants stressed the need for documentation of the retail sector.

Electric Fan Manufacturers Association (PEFMA), Gujrat

Since 1940s, Gujrat is famous for making electrical fans and the industry has excelled in the genre to cater the national and international demand. According to official data, the Gujrat district houses 362 electrical fan making units, 137 pottery making units and 784 furniture factories.

The session at the Association was attended by Mr. Fahad Rafiq, Chairman PEFMA, Mr. Zahid Mehmood, Vice President, Gulam Mohyuddin, CEO Khursheed Fans and eleven (11) other members of the Association.

It was highlighted that small enterprises are in majority with more than 300 players. The sector lacks a costing mechanism as it heavily depends on imported raw material, which fluctuates rapidly and inconsistently. The sector has huge potential to generate employment but it requires attention from the key stakeholders.

Certain competition concerns were also highlighted during the discussions. The participants complained of predatory pricing, often by the distributors, which has allegedly resulted in the shrinking of the industry from 500 to around 200 players at present. As there is a lack of a costing mechanism, there is a possibility of collusion among vendors to fix and raise prices. Deceptive marketing practices are also harming the industry. It was suggested that industry-wise input targets may be set to increase the SME's contribution to the national economy.

All Pakistan Bedsheets Upholstery Manufacturers Association (APBUMA), Multan

APBUMA is a leading association having an active presence in the country with its zonal offices in Faisalabad, Lahore, Karachi and head office in Multan. The session at APBUMA was attended by Khwaja Muhammad Younus, Chairman APBUMA, Syed Muhammad Fazil, Vice Chairman, Syed Muhammad Aasim, former Chairman along with thirty six (36) other members of the association.

The participants brought into notice that in monetary value, cotton production has largely decreased from $12 billion to $5 billion mainly due to multi-crop farming, low-quality seeds, and a tilt toward sugar cane cultivation. On the contrary, exports have increased by $25 billion due to shifting of international orders from India and China. It was stressed that the biggest challenge is to retain those businesses in Pakistan. Therefore, it was urged that government should take concrete steps in this regard.

It was also highlighted that the State Bank of Pakistan (SBP) frequently held online awareness sessions about financing facilities. However, private banks lend according to their own policies and risk appetite irrespective of credit schemes offered by SBP. Furthermore, R&D for improving seed quality is essentially required to enhance per acre yield. This could lead to an increased income for farmers as well.

Multan Chamber of Commerce & Industry

MCCI enjoys the singular distinction of being the premier Chamber of Southern Punjab representing economic activities due to its location in the industrial and commercial centre of southern Punjab. The session at MCCI was attended by Mr. Iftikhar Ali Shah, Senior Vice President of MCCI, Khawaja M. Usman, former President and twenty (20) other members of the chamber.

The discussion highlighted that the agriculture industry of the region needs to be promoted as it severely lacks access to state-of-the-art machinery. For instance, the cotton ginning industry and flour mills are still working with machinery with only 30-40% efficiency.

The prominent regions of South Punjab contributing to the national economy are Multan, Khanewal, Rahim Yar Khan, D.I.Khan, Muzaffargarh. Therefore, a cluster-based approach may be adopted by the government to incentivize their substantive share in the economy.

The participants of the session complained of an acute shortage of cold storage facilities in the region. Trade facilitation for the potential exporters is required to encourage national exports. There is a sheer lack of implementation of SBP's financing schemes for SMEs. Besides R&D issues, complex taxation, and unnecessary duties on SMEs were also highlighted during the discussion.

Rahim Yar Khan Chamber of Commerce & Industry (RYKCCI)

The session at RYKCCI was attended by Chaudhry Azam, Vice President, Malik Ejaz, Managing Director Swift Sales Distributor, Mr. Waqas Akram, Managing Director, Waqas Fahd Flour Mills, Mr. Ghulam Abbas Cheema, Managing Director Ittefaq Rice Mills, along with fifteen (15) other members of the chamber.

While addressing the seminar, Chaudhry Azam said that Rahim Yar Khan is one of the largest producers of cotton, wheat, sugarcane and rice, etc. One-third of the mango production in Pakistan is also produced in the district. There are over 100 Cotton Ginning Factories, more than 80 Flour Mills, around 100 Oil Mills, 5 Sugar Mills, 3 Textile Units, Power Loom Factories, 2 Fertilizer Factories, above 150 Seed Companies, more than 70 Pesticide Firms operating in the region. The chamber is actively working with institutions like SMEDA, SBP and FBR. He complained that the agriculture sector is facing numerous issues regarding increased prices of fertilizers, tractors and other associated machinery.

The participants also emphasized the need to improve Pakistan's taxation regime and put an end to under-invoicing. Businesses are reluctant to register themselves and are afraid to be part of the tax net of the country. They further added that the small businesses generally lack proper and complete documents vice versa banks are hesitant to lend credit facilities to them.

Faisalabad Chamber of Commerce & Industry (FCCI)

The session at FCCI was attended by Engr. Hafiz Ihtasham Javed, President, Ch. Talat Mehmood, Senior Vice President, Rana Ayub Aslam Mani, Vice President, Dr. Habib Aslam Gaba, Chairman FCCI Standing Committee, Muhammad Nazir, Secretary General, along with eighteen (18) other members of the chamber.

The Chamber's President informed that they are striving to become a voice of the business community with a strong pledge to enhance the economic prosperity and quality of life in Faisalabad. The Chamber offers various facilitation to its members ranging from SMEDA, SBP, and Punjab Board of Investment and Trade (PBIT) to visa facilitation, E-Police khidmat and several others.

During the interactive session, the participants highlighted the increasing power and gas tariffs as one of the major hurdles faced by the business community. They also complained about the redundant tax refund system, which is particularly discouraging the small businesses. Representatives of the textile exporters, while sharing their tax-related concerns, suggested introducing a fixed taxation regime to provide relief to small businesses.

It was further stressed that Faisalabad being the second largest industrial hub of Pakistan can achieve further economic growth, specifically in the industrial sector, by utilizing the opportunities available under CPEC. The central location of the city on the eastern route of CPEC along with its 4500 acres industrial estate located on the main M-3 motorway provides the ideal conditions for the setting up of new state-of-the-art industries through cooperation with Chinese entrepreneurs.

Faisalabad Chamber of Small Traders & Small Industries (FCSTI)

The session at FCSTI was attended by Mian Zafar Iqbal, CEO, Ch. Shafeeq, President FCSTI & the Vice President of All Pakistan Flour Mills Association, Ch. Javed Sadiq, Chairman, All Pakistan Cotton Power Looms Association, Muhammad Yousaf, President Faisalabad Gray Cloth Association, Eng. Bilal Jameel, Senior Vice Chairman, All Pakistan Bed Sheets & Upholstery Manufacturers Association, along with forty (40) other members of the chamber.

The Chamber's CEO informed that FCSTI was established in 2013 to maximize its members' success, the community's competitiveness and the area's economic prosperity.

The participants took a keen interest in the discussion and highlighted that high freight charges are creating a barrier for exporters. Amid Covid-19, the freight charges fluctuated drastically resulting in the decline in the ratio of exports in the region. Another issue highlighted was the problems faced by the small businesses while acquiring land in the industrial estates. It was recommended that small chambers need to be engaged on the boards of these industrial estate and Special Economic Zones (SEZs) so the rights of SMEs are preserved and ensured. They also suggested that warehouses should be established for exporters' facilitation in foreign countries while the staff members of embassies should be sensitized about the export potential. The SMEs particularly criticized the imposition of 17% GST on raw material.

Sargodha Chamber of Small Traders & Small Industries (SCST&SI)

The session was attended by Sheikh Asif Iqbal, founder President, Mr. Amjab Mehmood, Senior Vice President, Sh. M. Sherdil, Vice President, along with twenty four (24) members of the chamber. Most of Sargodha's economy is agro-based and the area is famous for producing the best citrus in Pakistan.

The discussion highlighted that a necessary condition to enhance labour productivity is the access and availability of Technical and Vocational Education and Training (TVET). SMEs do not have the resources to do so and depend on the public institutions providing TVET. At the federal level, National Vocational and Technical Training Commission (NAVTCC) is the regulatory body governing TVET. Each province has a provincial Technical Education and Vocational Training Authority (TEVTA). The closing down of such institutions due to lack of funding was specifically highlighted in the discussion. A deficiency in skill development has thus resulted in the non-availability of a trained labour force affecting SMEs' competitiveness and efficiency. Furthermore, there is a missing link between the courses taught at TVET institutes and the actual requirements of the industry, worsening the requisite skill gap. It was suggested that steps should be taken on war footing to tackle the situation in the region.

Korangi Association for Trade & Industry (KATI), Karachi

KATI is one of the vibrant trade and leading industrial associations of Pakistan. It was made operational in 1970 to represent the commercial activities of around 10,000 acres of Korangi Industrial Area. Karachi's contribution to the national exchequer is around 65% in which KATI's contribution is around 35%.

The session was attended by Mr. Ehtesham Uddin, former Chairman KATI & chairman of Standing Committees, Mr. Zaki Ahmed Sharif, Senior Vice President, Ms. Maheen Salman, Senior Vice President, Ms. Nighat Awan, Vice President and Mr. Nehal Akhtar, Secretary General along with other members.

The discussions with KATI members highlighted the importance of R&D for the development of SMEs. The national policies should pay adequate attention to micro and small businesses. Start-ups should be encouraged through the provision of incubators and facilitators.

Towel Manufacturers Association (TMA), Karachi

The session was attended by Mr. Feroze Alam Lari, Chairman, Mr. Aamir Hassan Lari, Chairman (SC), Mr. Muzzammil Husain, Secretary General along with the members in a large number.

It was highlighted that textile export constitutes around 60% of the country's total export, thus making it one of the prime sectors that require urgent government support. There are 162 various laws applicable to SMEs. Ease of doing business should be introduced to strengthen the sector. The discussion also pointed toward missing linkages between industry and academia. The technical curriculum should be revised and must include the innovative approaches adopted worldwide. Specifically, in the aftermath of Covid-19, e-commerce support is the need of the hour. Multiple payment gateways should be introduced and a consolidated policy should be formulated on a priority basis.

Furthermore, the gas pricing issue is a major barrier to SMEs' growth and sustainability. With the current discriminatory natural gas pricing regime in place, SMEs engaged in the manufacturing sector on RLNG cannot compete in the market (as they are charged three times higher prices) in comparison with the existing players operating on indigenous natural gas. The discriminatory gas pricing regime is a major factor responsible for shrinking industries in Sindh. Thus, it is critical to resolving the natural gas pricing issue and a revision in the natural gas pricing mechanism is therefore proposed such that all market players in an industry have a level playing field to operate.

Pakistan Knitwear & Sweaters Exporters Association (PKSEA), Karachi

The session was attended by Mr. Rafiq Habib Godil, Chairman PKSEA, Mr. Saqib, Senior Vice President of Karachi Chamber of Commerce & Industry, Mr. Danish Hanif, Chairman Pakistan Yarn Merchants Association, Mr. Abdur Rauf, Managing Director Shahzad Apparels along fifteen (15) other members of the association.

The representative of the Pakistan Yarn Merchant Association highlighted that in addition to the complex taxation system, SMEs are also unable to compete in the market due to various regulatory duties (RDs) imposed on imports under applicable Statutory Regulatory Orders (SROs) issued from time to time. These RDs on the one hand benefit the large players in the market upstream, controlling the supply of essential raw materials, it further gives them discretionary power to exert in the form of high prices and low quality on the other. Due to RDs, the SMEs have to procure raw materials from the local industry at high prices. Likewise, applicable CDs based on Harmonized System (HS) Code are such which are discriminatory and favour some goods under a certain HS Code against a similar good under another HS code.

Hyderabad Chamber of Small Traders & Small Industries (HCSTSI)

The session at Hyderabad Chamber of Small Traders & Small Industries was attended by Mr. Saleem-ud-Din Qureshi, President, Muhammad Altaf Memon, Senior Vice President, Muhammad Yasin Khilji, Convener Sub-Committee SME, Mr. Daulat Ram Lohana, former President, Mr. Fahad Hussian, Secretary General, and Mr. Shan Sehgal, Convener Sub-Committee Banking Affairs along with twenty two (22) other SME-affiliated businessmen and industrialists.

The Chamber's representatives informed that the Chamber is actively working on Kamyab Jawan Program and is providing utmost facilitation to SMEs. The Chamber also conveys the problem of the business community to the government representatives frequently. While discussing the hurdles in availing of financing facilities, it was particularly highlighted that cottage and small industries are widely neglected. Digitalization of SMEs is the need of the hour but is severely lacking. As for SBP's initiatives amid Covid-19, it was mentioned that policies formulated during the pandemic are useful for small traders but those policies/schemes are not adopted by other banks thus creating extra hurdles to survive in these critical times.

Hyderabad Chamber of Commerce & industry (HYDCCI)

The session was attended by Mr. Fahad Hussain Shaikh, President HYDCCI, Muhammad Wasim, Senior Vice President, and Mr. Javed Iqbal, Chairman Traffic Police Sub Committee along with other members of the Chamber. On the occasion, female entrepreneurs were also present in a large number.

The Chamber is closely working with SMEDA and TDAP. The speakers suggested that display centers should be established to encourage women entrepreneurs in the region. Moreover, training should be given on how to market and sell their products. Apart from a cumbersome tax system and excessive documentation, it was highlighted that commercial banks also require training regarding SME related schemes and credit facilities offered by SBP. Their capacity should be enhanced to ensure ease of doing business.

Quetta Chamber of Small Traders & Small Industries (QCSTSI)

QCSTSI was established in 2013 for the promotion of the business community of the region. Prominent industries include dry fruits, handicrafts, fruits & vegetables, traders, gemstones and many others. The importance of the area is multifold due to the proximity to two trading borders of Chaman and Taftan linking Pakistan with Afghanistan and Iran.

The session was attended by Mr. Hamdullah Khan Tareen, Chairman, Mir Murad Baloch, Vice President, Mr. Asad Khan Noorzai along with Regional Director TAVTA and businessmen/traders of Quetta.

The discussions highlighted that due to the geographical location generally, barter trade takes place in the region. As banking transactions are generally avoided by the local and foreign traders, a seepage of revenue is noticed. Revenue generation can be increased by curtailing this aspect along with the creation of free zones at the border. This will not only generate revenue for the government but also create employment for natives. All business activities, including import and export of perishable items, are mostly executed via Quetta Dry Port and Chaman and Taftan border crossings with Afghanistan and Iran, respectively.

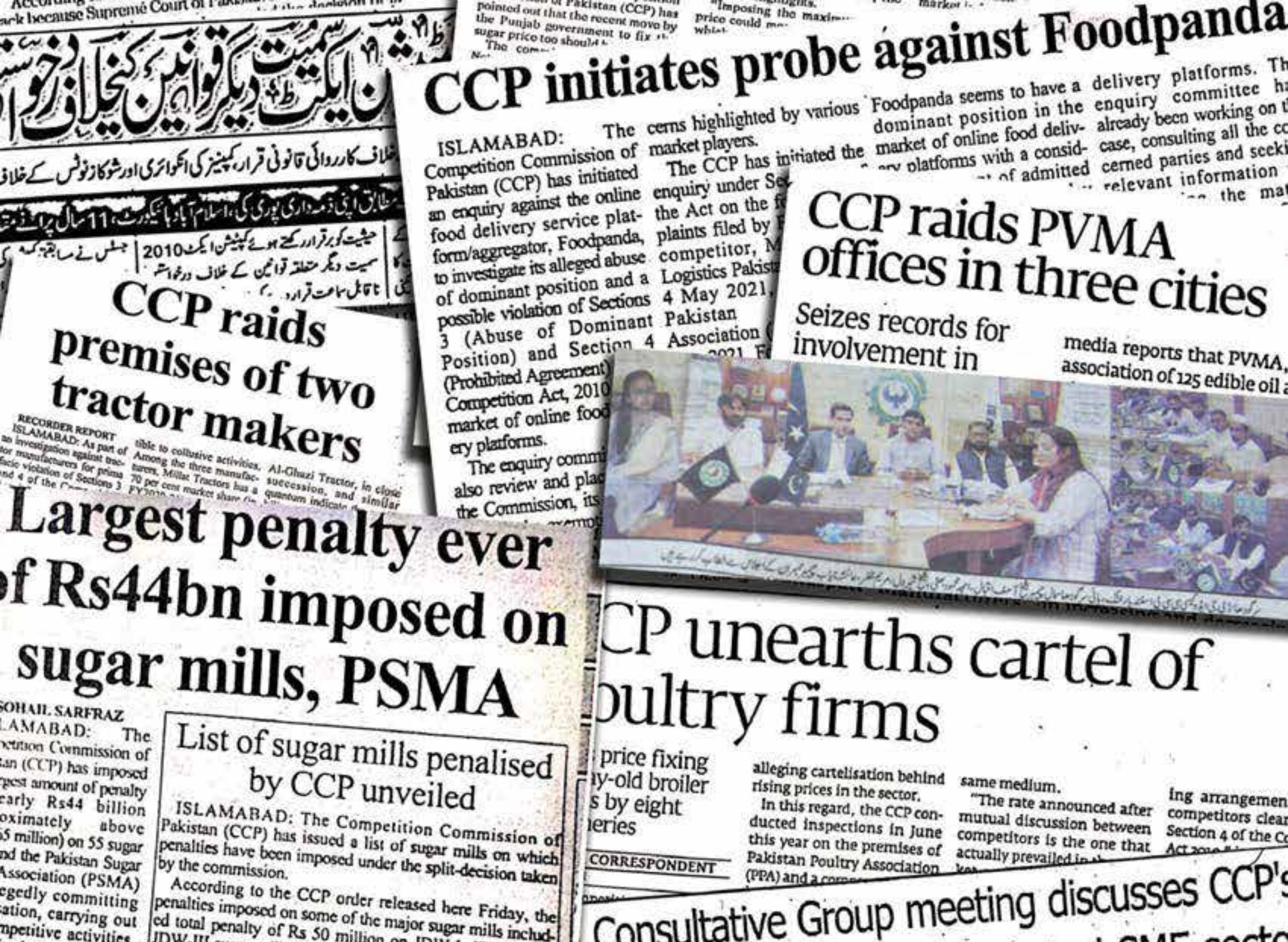
Exporters stated their concerns about the lack of storage facilities in the region, which is essential for the export of fruits from Pakistan. Fruit grading units and other related facilities are also scarce and urgently need the government's support. It was also noticed that, although most of the business community is associated with the trading sector, the region possesses huge potential for marble processing, chromite processing, livestock and fisheries-related industries.

International Affairs

The Commission's Officers Participated in the Following International Acitivities

July - December 2021

Sr.	DATE	DESCRIPTION
01.	7th July, 2021	19th session of Intergovernmental Group of Experts, UNCTAD on 'International Experiences and best practices in competition law enforcement against cross border cartels'
02.	7th September, 2021	ICN Webinar on 'Intersection between Competition, Consumer Protection and Privacy'
03.	13th -16th September, 2021	Concurrences- Antitrust Publications & Events conducted the annual Antitrust in Asia Conference with series of 4 webinars a). MERGER CONTROL IN ASIA : Sharing Experience Of New And Emerging Regimes And Trends b). INSTITUTIONAL DESIGN: Should Competition Law Be Enforced By Sectorial Regulators? c). How to Coordinate Cases across the Asian Region? d). Policy & Legal Developments in Mainland China & Hong Kong: Mergers, Cooperation, Dominance and Digital
04.	4th November, 2021	ICN Remedies Webinar 'Substantive discussion of Behavioral and Structural Remedies'
05.	11th November, 2021	ICN Remedies Webinar 'Coordination of Multijurisdictional Merger Remedies'
06.	17th -19th November, 2021	International Competition Network (ICN) Cartel Workshop 2021 with workshops on: a). Crisis cartels and essential cooperation: lessons learned from the COVID pandemic and an outlook into the future b). Ensuring a stronger anti-cartel enforcement through international cooperation c). Dawn raids during the COVID pandemic: risks, challenges and opportunities d). A stronger anti-cartel enforcement for an effective economic recovery post Covid-19 pandemic e). How to bring cartel cases to the public attention: an effective communication with the public to raise awareness and foster compliance f). Ensuring effective deterrence: which criteria should be taken into account when calculating fines? g). How to make a cartel decision bullet-proof in court? h). Detection and investigative tools: how do we ensure that competition agencies are well-equipped to detect and investigate cartels? i). Hub-and-spoke cases: theories of harm, standards of proof and specific challenges j). Detecting bid-rigging: latest developments in screening public procurement data and other methods k). Cartels in labor markets: how to investigate no-poach and other anticompetitive agreements l). Fighting cartels together with private enforcement: current state of play and impact on leniency and public anti-cartel enforcement m). Cartel enforcement in the next decade: priorities and new trends looking beyond the pandemic n). How to manage informants and whistle blowers
07.	18th -19th November, 2021	OECD Online workshop on Regulatory barriers to competition in professional services
08.	3rd December, 2021	UNCTAD's Global Policy Dialogue - GPD entitled 'Post COVID19 Resurgence of SMEs and Competition Policy'



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