Policy Note

Re: Draft bill to provide for corporatisation, demutualization and integration of stock exchanges in Pakistan.

We have reviewed the draft bill to provide for "corporatisation, demutualization and integration of stock exchanges in Pakistan". Competition Commission of Pakistan (CCP) is concerned with only one aspect of the draft bill which raises competition issues, namely, the provisions pertaining to integration (or merger) of the stock exchanges, i.e., sections 17 and 18.

2. It is important to note that under the Competition Ordinance, 2007, Pakistan has a mandatory merger clearance regime whereby all mergers must be pre-approved by CCP. The law has imposed an onerous responsibility on CCP to ensure that no merger takes place that materially reduces or distorts competition in the relevant market, and in allowing a merger, CCP may, in its discretion, impose such conditions as are necessary to ameliorate or prevent any competition-adverse situation arising in the aftermath of the merger. This is, perhaps, a most significant public interest duty entrusted to CCP in connection with which CCP has acquired the necessary technical expertise which it brings to bear in each merger transaction submitted to it for clearance.

3. We find that the draft bill does not specifically require that the "scheme of integration" prepared by the stock exchanges in terms of section 17 be cleared by CCP (in accordance with section 11 of the Competition Ordinance, 2007) as is the case with all mergers. In fact, this is definitively obviated by the non-obstante provision in section 25 of the draft bill which will give the proposed law over-riding effect over all other laws.

4. We are of the considered opinion that no useful purpose would be served by excluding CCP from considering and approving any scheme of integration prepared by the stock exchanges. In order to safeguard public interest, such a merger scheme must be professionally vetted by CCP and competition issues, if any, duly addressed before it is allowed to proceed.

5. Clearance by CCP can precede or follow approval of the integration scheme by SECP. Provision for this can be made in the draft bill by way of an appropriately worded section following section 18 or by appropriate language in section 25 that precludes the Competition Ordinance, 2007 from being overridden by the draft bill.

6. CCP is an important tool and resource for the Government to use to full advantage for promoting economic efficiency and consumer/investor welfare through enhanced competition. The Government must utilize the expertise of CCP when giving consideration to any proposed merger of stock exchanges so that the approval accorded is premised on such conditions as are necessary to allow the fruits of competition and contestability to accrue to all stakeholders i.e., the investors, the issuers, the brokers and the general public.

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