

BEFORE THE  
COMPETITION APPELLATE TRIBUNAL, ISLAMABAD

M/s PAK MUZAFFAR CABLES

.... APPELLANT

VERSUS

COMPETITION COMMISSION OF PAKISTAN

...RESPONDENT

Appeal No.07/2022

**Present:** Justice Mamoon Rashid Sheikh, Chairperson  
Muhammad Asghar Ch., Member Technical  
Raja Saad Sultan, Member Technical.

For the appellant: Mr. Faisal Iqbal Khan, Advocate

For the Respondent: Mr. Daniyal Hassan, Advocate, assisted by  
M/s Hassan Ahsan Mian and Haider Imtiaz,  
Law Officers.

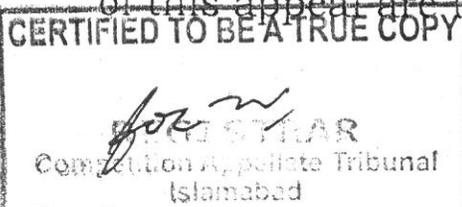
Date of hearing: 12.01.2022, 08.03.2022, 30.03.2022,  
15.06.2022, 05.07.2022, 11.10.2022,  
23.11.2022 & 08.12.2022.

**JUDGMENT**

**Muhammad Asghar Ch., Member Technical.**

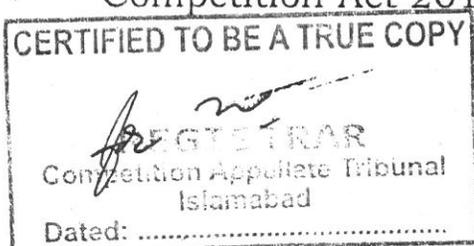
This Judgment disposes of the appeal, filed by M/s Pak Muzaffar Cables (appellant) against the impugned order dated 26.03.2019, passed by Competition Commission of Pakistan (respondent). The order held Pak Muzaffar Cables actions to be in violation of section 10 (1) in terms of section 10 (2) (a) & (b) of the Competition Act 2010 (The Act) and imposed penalty of Rs. 500,000/- as specified in para 23 of the impugned order.

2. The brief facts of the case resulting in presentation of this appeal are that, the appellant and seventeen



different electric cables manufacturing companies have adopted the practice of inserting cash / cash coupons of various denominations in the packaging of their electric wire cable bundles. However, the packaging of the electric wire cable bundles and other promotional material neither contain any indication of such scheme nor reflects the availability of coupons and their value placed therein. Resultantly, the respondent (CCP), after the primary analysis, initiated enquiry in accordance with sub section 1 of section 37 of the Act and directed the enquiry committee to undertake a fact-finding enquiry and submit the report by giving their findings and recommendations whether their act was misleading and deceptive under section 10 of the Act.

3. The enquiry report revealed that cable manufacturers have contravened the provision of Section 10 of the Act and concluded that due to the omission of disclosure about the placement of cash coupon on the packaging of the cable wire bundle the actual consumers remains unaware about the presence of cash coupon and hence it ultimately transfers the benefit of the cash coupon to the electrician, instead of actual purchaser of the product. Furthermore, omission of material information not only misleads the consumers about their purchase decision but it also gives a competitive edge to the undertaking omitting the material information over the other undertakings in the same line of businesses. Thus it attracts the provisions of section 10 (1) in terms of section 10 (2) (a) & (b) of the Competition Act 2010.

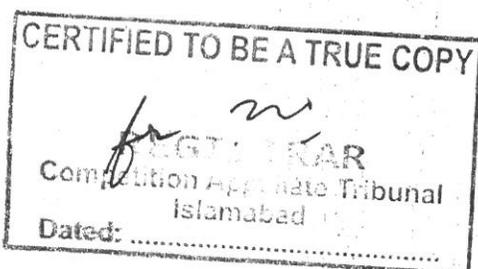


4. On the basis of enquiry report, the respondent decided to initiate proceedings under section 30 of the act against the Appellant and issued show cause notice to the appellant on 18.11.2016.

The appellant did not file reply to show cause notice/reminders, however, its representative appeared before the Commission on a date of hearing and submitted commitments through an affidavit dated 18<sup>th</sup> July, 2018, which is reproduced as under:-

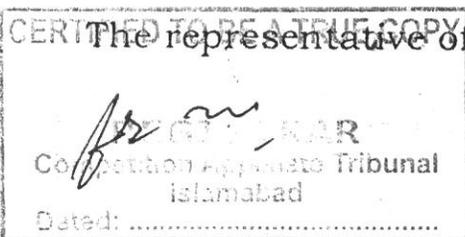
- i) that no token or gift will be put in the packing of our products in future, unless the details of such token / gift are printed on the sticker / label, which is affixed on the product.
- ii) that the previous stocks have been sold out and no stocks are lying unsold with us or with our dealers in the market.

5. The Commission vide its order dated 26.03.2019 established in their proceedings that the non-disclosure of tokens in electric cable packs, practiced inter-alia by M/s Pak Muzaffar Cables is deceptive, as it creates ambiguity and lacks reasonable basis as to the price borne by the consumers. It was not informed about the presence of token / cash coupons and its value and its placement in the centre of cable, pack, which makes access to such information further difficult. This could also have the adverse effect of giving an unfair competitive edge to Electric Cable Manufacturers offering higher token values without disclosures to the consumers who bear the price, as the technicians would have naturally an incentive to purchase the



cable containing higher token values / cash and other factors such as quality, durability would be compromised. The practice of omission of material information with respect to token in electric cable packs amount misleading information to consumers, hence is violation under Section 10 of the Act. The Commission however, took a leniency view u/s 39 of the Act, appreciative of the fact that during the proceedings the appellant showed willingness to comply with the directions which may be issued in the circumstances. Keeping in view the written commitment, the Commission imposed a penalty of Rs. 500,000/- with directions to the appellant to issue four (4) advertisements / public notices of A-4 size, to be published at least at fifteen days interval, in at least two Urdu and two English newspapers of national circulation, making due disclosures to the public regarding the presence and price value of token / coupon and the category of products in which these tokens are found present.

6. The learned counsel for the appellant during the hearing on 08.12.2022, advanced his arguments on the basis of memorandum of appeal, stating that the Commission initiated suo-moto / self-conducted enquiry not fully appreciating the facts that disclosures were available on the packaging of the cable wire bundle along with other information. It was contended that he did not receive any questionnaire / letter to explain its version about the presence of the coupon and stucked that the same had been written on the packing of the wire bundle. The appellant was not asked by the Commission to file written reply as they did not receive letters dated 04.04.2016 and 26.04.2016, therefore, the same could not be replied in the prescribed period.



Commission and verbally submitted his point of view and factual position but the same were not considered and mentioned in the impugned order. The learned counsel for the appellant further submitted that the Commission while imposing penalty / fine did not take into consideration the gravity of offence, even if it is committed, it should be considered by the Commission that this was not deliberate or wilful at the part of the appellant and that it could have been avoided by passing warning to the appellant to be careful in future. He reiterated that the Commission checked upon his right to defend the case and passed impugned order without affording an opportunity for written statements. In his final arguments he prayed to wave off fine and the issuance of advertisements as directed vide impugned order dated 26.03.2019.

7. The learned counsel for the respondent (CCP) assisted by the law officers of CCP opposed vehemently all arguments and claims of appellant regarding the disclosure on the cable packaging. He informed that the appellant was duly provided opportunities for written replies and to appear before enquiry committee as well before the Commission to defend his case and provide material evidence regarding the allegations of deceptive marketing i.e., enclosing cash coupons / tokens. Despite reminders, the appellant did not submit replies to Enquiry Committee, however, its representative appeared before the Commission on date of hearing and filed commitments to part 4 of General Enforcement Rules, through an affidavit of undertaking on 31.10.2017. The representative of M/s Pak Muzaffar Cables under took as under:-

"I, Malik Muzaffar Ahmad S/o Malik Muhammad Sharif, Proprietor, Pak Muzaffar Cables, 105, G Block, Gulshan-e-Ravi, Lahore do hereby declare and undertake that no

<p>CERTIFIED TO BE A TRUE COPY</p> <p><i>[Signature]</i></p> <p>GENERAL CLERK Competition Appellate Tribunal Islamabad</p> <p>Dated: .....</p>	<p><i>[Signature]</i></p>
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sperate token will be put into the packing of our product in future, and instead the matter showing the promotional schemes will be printed on the wrappers used to wrap the products.

2) That our existing stocks lying at shops / stores will be exhausted within three months, and if any stocks remain unsold, the same will be collected back by us and will not be sold”

In another undertaking dated 18.07.2018, the representative of M/s Pak Muzaffar Cables undertook as under:-

“1) That no token or gift will be put in the packing of our products in future, unless the details of such token / gift are printed on the sticker / label, which is affixed on the product.

2) That the previous stocks have been sold out and no stocks are lying unsold with us or with our dealers in the market.”

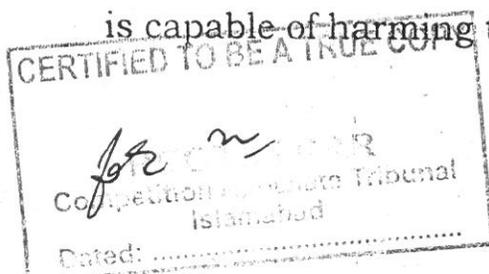
8. We have heard legal and factual arguments of learned counsel for the appellant as well as learned counsel for the respondent.

9. Hearing proceedings in this appeal have concluded that M/s Pak Muzaffar Cables (appellant) committed violation of deceptive marketing in terms of section 10 (1), 10 (2) (a) & (b) of the Act, reproduced as under:-

10. **Deceptive marketing practices** (1) No undertaking shall enter into deceptive marketing practices.

(2) The deceptive marketing practices shall be deemed to have been resorted to or continued of an Undertaking resorts to\_\_

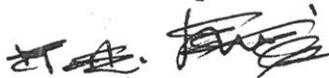
(a) the distribution of false or misleading information that is capable of harming the business interests of another undertaking;



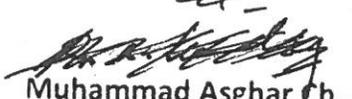
(b) the distribution of false or misleading information to consumers, including the distribution of information lacking a reasonable basis, related to the price, character, method or place of production, properties, suitability for use, or quality of goods;

10. The appellant although claimed that the disclosures of tokens/cash coupons were available on the wrappers of cable packaging, but the claim could not be proved before Enquiry Committee or Commission. Moreover, the undertakings submitted by M/s Pak Muzaffar Cables clearly indicate that they have contravened the provisions of the Act and did deceptive marketing practice enclosing cash coupons without disclosures on the wrapping of packaging. The compliance and commitment also clearly shows these violations.

11. In view of aforesaid, we hold that the appeal, being devoid of merit is dismissed and impugned order dated 26.03.2019 of Competition Commission of Pakistan is upheld along with its all directions issued in the impugned order to the appellant for compliance.

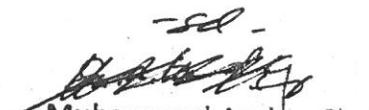
*sd.*  


Justice Mamoon Rashid Sheikh,  
 Chairman

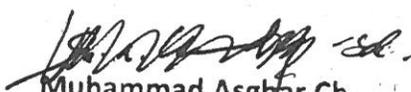
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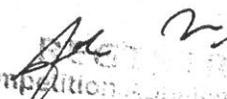
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 Raja Saad Sultan,  
 Member Technical

Announced in open court on 14.07.2023.

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 Muhammad Asghar Ch.,  
 Member Technical

Approved for reporting

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 Muhammad Asghar Ch.,  
 Member Technical

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