

INFORGRAPHICS

In the Matter of Show Cause Notices issued to
**Paint Manufacturers for
Non-compliance of CCP's order**
dated 13-01-2012 (\$10) - (Token Case)



Competition Commission
of Pakistan

www.cc.gov.pk

BACKGROUND ISSUE AND COMPLAINT

- This proceeding was initiated under Section 38 of the Act for non-compliance of Paint Order dated 13-01-2012 against the 11 Respondents.
- The Commission acted on a concern raised by the Consumer Association of Pakistan, that paint manufacturers were hiding redeemable coupons in paint packs without adequate disclosures, leaving the end consumers largely unaware of this practice, which amounts to misleading consumers and is a deceptive marketing practice in violation of Section 10 of the Competition Act.
- Taking notice of various concerns raised regarding the non-compliance of the Paint Order by the Paint Manufacturers, the Commission conducted a survey in December 2013, wherein it was revealed that out of fifteen only four were found in compliance, whereas, 11 Respondents were non-complaint with the Commission's directions.



DATE OF ORDER

13 October 2021



BENCH MEMBERS

Ms. Bushra Naz Malik
Mr. Mujtaba Ahmad Lodhi

DIRECTIONS IN THE PREVIOUS ORDER

Following directions were issued through the order to all Respondents, which were to be complied within a period of 60 days and a compliance report was to be filed with the Commission accordingly.

- To ensure that all advertisements, promotional materials or instruction manuals pertaining to the paint packs, whether electronic, printed or otherwise, were modified to disclose the presence and the price / value of the token on each pack.
- The aforesaid disclosure should be conspicuous on the packaging of the paint pack.
- The undertakings, during the 60 day interim period, would issue periodic advertisements regarding the presence of the tokens.



SECTOR/MARKET

Paint Manufacturers



NATURE AND SECTION VIOLATION

Deceptive Marketing Practices in violation of Section 10 of the Competition Act, 2010

ISSUES FRAMED BY THE BENCH



- Whether the undertakings have fulfilled all direction given under Paragraph 48 of the Paint Order?
- Whether the undertakings are liable for penal action under Section 38 of the Competition Act, 2010 for non-compliance of the Paint Order?

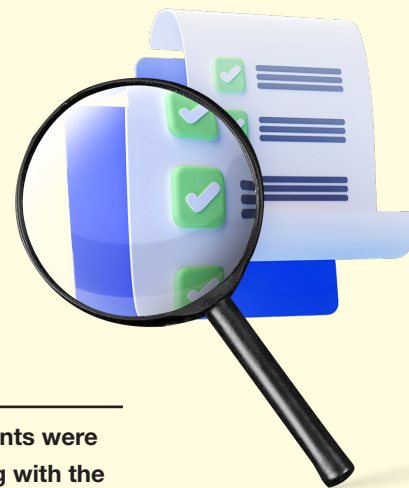


COMPLAINANT

The Consumer Association of Pakistan

FINDINGS OF THE BENCH

- For the purpose of identifying and examining the compliance of the paint-manufacturers, the Commission has conducted multiple surveys in the relevant market. So that any non-compliance with respect to the Commission's order may be identified and subsequently rectified in order to promote competition within the realm of the Paints Industry.
- The Bench found that all the Respondents were fully complying with the Commission's directions.
- The compliance reports filed by the Respondents dated 11-10-2020 also provided proof of the said compliance.
- With respect to the compliance status of each Respondent based on the compliance reports, the Bench summarized the findings in the form of the following table:



The Respondents were fully complying with the Commission's directions.

Respondent No.	Name	Token Insertion	Disclaimer on Advertisement/Promotional Materials	Value of Token mentioned on Paint Pack	Disclaimer on Paint Pack
1	Berger Paints	✓	✓	✓	✓
2	Brighto Paints	✓	✓	✓	✓
3	Brolac Paints	✓	✓	✓	✓
4	Chawla Paints	Respondent No.4 had left this particular line business.			
5	Allied (Gobi's)	✓	✓	✓	✓
6	Happilac (Karss)	✓	✓	✓	✓
7	Kansai Paints	✓	✓	✓	✓
8	Rafiq (King Fisher)	✓	✓	✓	✓
9	Mansoor (Marvel)	✓	✓	✓	✓
10	Nelson Paints	✓	✓	✓	✓
11	UP (Silver Sand)	✓	✓	✓	✓

REMEDIES & PENALTY

The Bench noted that in light of the actions taken by the Respondents and recognized status of compliance of each Respondents, it was concluded that the Respondents were not liable to be penalized under Section 38(1) (b) of the Act for non-compliance of the Commission's directions within the Paint Order.

PRINCIPLE LAID DOWN & LESSON DRAWN

- *There is a **duty on the undertakings to disclose information** about tokens and take necessary measures to ensure that the benefit is accrued to the consumer otherwise it would unreasonably place a higher onus on the consumer rather than the undertaking which would be contrary to the intent of the law.*
- ***An advertisement is deceptive if it has the elements of being misleading**, capable of giving the wrong impression or idea and tends to misinform or misguide owing to vagueness or any omission. This implies that withholding of important information regarding the token may not necessarily have been deliberate or conscious in order for it to qualify as misleading.*



TO DOWNLOAD THE ORDER

