



**BEFORE THE
COMPETITION COMMISSION OF PAKISTAN
IN THE MATTER OF SHOW CAUSE NOTICE ISSUED TO
M/S. KINGDOM VALLEY (PRIVATE) LIMITED
FOR PRIMA FACIE VIOLATIONS OF SECTION 10 OF
THE COMPETITION ACT, 2010**

(File No. 422/KINGDOM VALLEY/OFT/CCP/2022)

Date of Hearing:

28-01-2025

Commission:

Saeed Ahmad Nawaz
Member

Abdul Rashid Sheikh
Member

Present:

M/s Kingdom Valley (Pvt) Ltd
(Respondent)

Syed Tassadaq Murtaza Naqvi
Advocate High Court



ORDER

1. This order shall dispose of the proceedings initiated by the Competition Commission of Pakistan (hereinafter the **Commission**) u/s 37 of the Competition Act, 2010 (hereinafter the **Act**) vide Show Cause Notice No. 10/2024 dated 15.04.2024 (hereinafter the **SCN**) issued to M/s. Kingdom Valley (Private) Limited for *prima facie* violations of Section 10 of the Act.

FACTUAL BACKGROUND

2. M/s Kingdom Valley (Pvt.) Limited (hereinafter the **Respondent**) is a corporate entity registered with the Securities and Exchange Commission of Pakistan under the Companies Act, 2017 vide License No. 015073 dated 04.05.2020. The Respondent launched a housing scheme under the name of "Kingdom Valley Islamabad" in August 2020 and allegedly marketed it as being located in Islamabad. The Respondent further claimed its affiliation with the Naya Pakistan Housing Program and the Naya Pakistan Housing and Development Authority and advertised that its housing scheme was "NOC Approved". The Respondent published the advertisements through billboards, website, Facebook pages and Television Commercials, wherein the Respondent specifically made the following claims:

- i. The Project is associated with "Naya Pakistan Housing Program" (**NPHP**) and "Naya Pakistan Housing & Development Authority" (**NAPHDA**);
- ii. The NOC has been approved by Punjab Housing and Town Planning Agency (**PHATA**); and
- iii. The Project is located in the territorial limits of Capital Territory, Islamabad.

3. The Respondent's claims in the marketing advertisements and allied representations raised concerns regarding potential deceptive marketing practices. Consequently, the Commission took *suo moto* notice of the advertisements published by the Respondent and initiated an enquiry under Section 37(1) of the Act by appointing the enquiry officers vide decision dated 09.09.2022 (hereinafter the **Enquiry Committee**) to investigate the matter for potential violations of Section 10 of the Act, which prohibits deceptive marketing practices, and to submit a report to the Commission.

The Enquiry Committee concluded its findings vide Enquiry Report dated 30.05.2023 (hereinafter the **Enquiry Report**) in the following terms:



“6.2 Hence, it can be concluded that the Undertaking has been found to be engaged in distribution of false and misleading information, through the use of phrase ‘Kingdom Valley, Islamabad’, claims of association with Naya Pakistan Housing Program and ‘NOC Approved’, which is capable of harming business interests of other undertakings, prima facie, in violation of Section 10(2)(a) of the Act.

6.3 Therefore, it can also be concluded that the Undertaking has been found to be engaged in distribution of false and misleading information to consumers, through the use of phrase ‘Kingdom Valley, Islamabad’, claims of association with Naya Pakistan Housing Program and ‘NOC Approved’, which lacks a reasonable basis related to the price, characteristics, properties, quality and origin of the housing project, prima facie, in violation of Section 10(2)(b) of the Act.

6.4 In light of the above the Undertaking has also been found to be engaged in Deceptive Marketing Practices, thereby violating section 10(1) of the Act. Moreover, the marketing activities of the Undertaking surpass the intra-provincial boundaries

6.5 In view of the above, it has been concluded by the Enquiry Committee that the Undertaking has, prima facie, entered into a deceptive marketing practice, violating the provisions of Section 10(1) in terms of Section 10(2)(a)&(b) of the Act. It is, therefore recommended that in interest of the public at large, proceedings may be initiated against M/s Kingdom Valley (Private) Limited under the provisions of the Section 30 of the Act for, prima facie, violation of Section 10 of the Act.”

5. Based on the conclusions and recommendations of the Enquiry Committee the Commission decided in its meeting held on 27.11.2023 in the general public interest to initiate proceedings against the Respondent, under Section 30 of the Act. The Commission, therefore, issued the SCN to the Respondent for, prima facie, violation of Section 10 of the Act as follows:

“5. **WHEREAS**, in terms of the Enquiry Report in general and paragraph 6.2 in particular, it is evident that Undertaking has been found to be engaged in distribution of false and misleading information, through the use of phrase “Kingdom Valley, Islamabad”, claims of association with Naya Pakistan Housing Program and “NOC Approved”, which is capable of harming the business interests of other undertakings, prima facie, in violation of Section (10) (2) (a) of the Act; and

6. **WHEREAS**, in terms of the Enquiry Report in general and paragraph 6.3 in particular, it appears that the Undertaking has been found to be engaged in distribution of false and misleading information to consumers, through the use of phrase “Kingdom Valley, Islamabad”, claims of association with Naya Pakistan Housing Program and “NOC Approved”, which lacks a reasonable basis related to the price, characteristics, properties, quality and origin of the housing project, prima facie, in violation of Section 10 (2) (b) of the Act; and

WHEREAS, in terms of the Enquiry Report in general and paragraphs 6.2 to 6.4 in particular, it appears that the Undertaking is engaged in Deceptive Marketing Practices, thereby violating Section 10 (1) of the Act; and



8. **WHEREAS**, in terms of the Enquiry Report in general and paragraph 6.4 in particular, the conduct of the Undertaking is not bound by territorial limitations of the provincial boundaries hence has a spillover effect;”.

SUBMISSIONS BY THE RESPONDENT

6. In response to the SCN, the Respondent submitted its written reply to the Commission on 03.06.2024 wherein the Respondent denied all the allegations and claimed that the advertisements published by the Respondent were not violative of section 10 of the Act. A succinct summation of the written reply of the Respondent is as follows:

- (i) That the Respondent is a duly registered entity with the Securities and Exchange Commission of Pakistan (SECP) and Federal Board of Revenue (FBR). Additionally, the Respondent has obtained trademark and copyright registrations for the Project from competent authorities;
- (ii) That the Respondent's Project is an approved housing scheme under letter No. DG-PHATA/W- I/PHS/11/2021/2017-12 dated 12.10.2021, under NPHP issued vide Endst No. AP-I (1377)-2021/128, duly published in the Punjab Gazette on 26.04.2021 (Control Area Notification for Kingdom Valley, Rawalpindi under Rule 10(2)(c) of PHATA Affordable Private Housing Scheme Rules, 2020);
- (iii) That the Project is also approved by PHATA under Affordable Private Housing Scheme Rules 2020 (APHS), duly notified in the Punjab Gazette vide Notification No. SO (H-II) 2-1/2019 dated 20.10.2020;
- (iv) That the Phase-I of the Project is sanctioned under Memo No. DG-PHATA/W- I/PHS/11/2021/782-86 dated 05.07.2022;
- (v) That NAPHDA vide its letter bearing No. 08(1)/2022-Legal dated 28.02.2022 clarified to the Commission that the Project had been approved by the PHATA (Government of the Punjab) under its relevant rules and regulations. However, as far as NAPHDA is concerned, the Project has neither been approved nor associated with NAPHDA because NAPHDA never granted approval to any development authority for execution of a project under NPHP and the respective development authorities approve the projects on their own under their rules and regulations. NAPHDA only works in collaboration with Government authorities for provision of low cost housing;

(vi) That the issue in the Enquiry Report related to violation of Section 10(2)(a) is denied for the reason that all the printed evidence attached with the Enquiry Report



is related to the alleged advertisement on Facebook and does not show that the Respondent actually operates those social media pages. The Respondent does not have any presence on Facebook and only utilizes its website or newspapers as a modus operandi for advertisements. Additionally, the Respondent neither employed any employee nor any agent to advertise the Project on behalf of the Respondent. It is common knowledge that social media is unregulated, therefore, any aberrant information on any social media platform is not a liability on the part of the Respondent. Since there is a want for probative evidence to show whether the Respondent had actually harmed the business interests of other undertakings, therefore, the allegation is denied;

(vii) That the Project is based in Rawalpindi and it is approved by PHATA (Government of the Punjab) under its rules, therefore, there is no reason for the Respondent to advertise or undertake sales and/or book any plot within the Capital Territory jurisdiction of Islamabad. The Enquiry Report does not illustrate through any probative evidence that the Respondent has taken any concrete steps to advertise or conduct sale of plots and/or book a plot within Capital Territorial Jurisdiction of Islamabad;

(viii) That although Phase-I of the Project is located within territorial jurisdiction of Rawalpindi as well as approved by the PHATA (Government of the Punjab) as per its rules, however, an application for approval of Phase-II and Phase-III of the Project is pending with the said authority. The Commission is required to provide proof in the form of probative evidence to show that the Respondent also claimed to have NOC for the Project from NPHP and NAPHDA. NAPHDA does not directly deal with proprietors rather approves low cost housing through respective Development Authority. Therefore, allegation of false or misleading information related to NOC does not make any sense, hence, same is denied;

(ix) That the information gathered for analysis by the Commission does not prove that the Respondent is the only entity that could have disseminated such information and any conclusion that the Respondent was the source of the misleading information is a conjecture. The conclusion lacks the citation of any probative evidence, hence due to want of proof it is denied;

(x) That the Respondent is engaged in real estate business and extensively marketing its housing scheme i.e. the project near Islamabad to Lahore Motorway Chakri



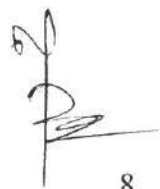
Interchange. As matter of fact, the Project is located in Mouza Choor, Tehsil & District Rawalpindi and is approved by PHATA;

- (xi) That it was never the intention of the Respondent to mis-sell a plot or defraud the consumers. However, if any material is incongruous within the Respondent's advertisement, it must be proved through probative and compelling evidence, which is akin to a reasonable understanding that due to ambiguity the particular piece of advertisement related to the Project had inadvertently crept in an improper material then the Respondent would like to press Section 39 of the Act to seek leniency of the Commission and an opportunity may be provided to the Respondent to rectify the bare discrepancy.

HEARING

7. The hearing was conducted on 28.01.2025, during which the Respondent was represented by Syed Tassadaq Murtaza Naqvi of Naqvi & Co. Advocates. He asserted that the Respondent never claimed that Kingdom Valley was located in the territorial jurisdiction of Islamabad. The learned counsel continued that no social media platform was owned or utilized by the Respondent for the promotion of their real estate project. He informed the Bench that Phase-II of the project had been approved but neither Phase-II nor III was advertised for sale of plots nor even a single unit of property was sold therefrom. While the learned counsel for the Respondent vehemently denied having caused any injury under the injurious falsehood to any undertaking as held in 2023 CLD 1001 K&N Case, he could neither deny nor offer any justification for the pictorial evidence presented in the Enquiry Report. Moreover, the counsel for the Respondent could not produce any evidence of action(s) taken by the Respondent against the Facebook accounts spreading false and misleading information about the Kingdom Valley.

8. Mr. Naqvi, the learned counsel, however, pleaded for leniency under Section 39 of the Act on the grounds that the Respondent rectified all the factually incorrect claims, removed the misleading pictures and had not derived any benefit out of it at all. When asked to justify the application of Section 39 in the instant matter of deceptive marketing under the purview of Section 10 of the Act, he reiterated the details of the remedial actions undertaken by the Respondent in compliance with the Notices for Enquiry and SCN issued by the Competition Commission of Pakistan. He prayed to submit his pleadings in writing to comprehensively address the observations made and questions raised by the Bench. The Bench clarified that



Section 39 was applicable to proceedings under Section 4 (Prohibited Agreements) and not related to matters of deceptive marketing under Section 10 of the Act. The Bench may, however, consider a compliance oriented approach if adopted by the undertaking, while determining the quantum of the penalties.

ISSUES FOR DETERMINATION

9. Based on the findings of the Enquiry Report, SCN and replies/submissions of the Respondent, the following issues were framed for the Commission's deliberation, analysis and determination:

- A. Whether the Respondent has disseminated false and misleading information without reasonable basis, through the alleged claims which amounts to violation of Section 10(2)(b) of the Act; and
- B. Whether the false and misleading information distributed by the Respondent was capable of harming the business interests of any other undertaking(s) in terms of Section 10(2)(a) of the Act.

ANALYSIS

A. Whether the Respondent has disseminated false and misleading information, without reasonable basis, through the alleged claims which amounts to violation of Section 10(2)(b) of the Act.

10. The core issue in the instant case pertains to deceptive character of the Respondent's advertisements and promotional materials. Section 10 of the Act prohibits "deceptive marketing practices", and serves to protect the interests of both the consumers and competitors. For ease of reference, relevant excerpts of Section 10 are reproduced herein below:

"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 if 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;"

11. Section 10(2)(b) is particularly relevant in evaluating whether the Respondent's advertisements and representations disseminated to consumers contained false or misleading information and whether such claims lacked a reasonable basis concerning the characteristics, suitability for use, or other essential aspects of the advertised project. The

key question before the Commission, therefore, is whether the Respondent's marketing material misled consumers by providing inaccurate or unsubstantiated claims or withholding material information, thereby constituting a violation of the Section 10(2)(b) of the Act.

12. We deem it appropriate to refer to the earlier Orders of the Commission pertaining to the analytical scheme of the alleged infringement(s) under Section 10 of the Act. In the matter of **China Mobile Pak Limited and Pakistan Telecom Mobile Limited 2010 CLD 1478**, the Commission has observed that in determining whether an advertisement or marketing material (and the advertised claims) amount to deceptive marketing practices, the Commission shall:

"...evaluate complete advertisement and make an opinion regarding deception [...] on the basis of net general impression conveyed by them and not an isolated script".

With regard to 'consumers', the Commission has held that:

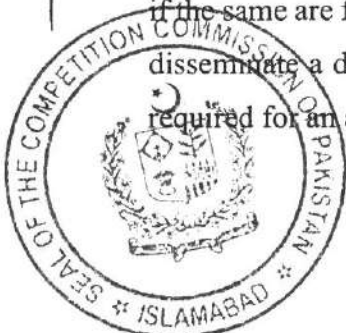
"the term 'consumer' under Section 10 of the [Ordinance] is to be construed as an 'ordinary consumer' but need not be necessarily restricted to the end consumer of the goods or services".

False and misleading information has been interpreted by the Commission to include:

False information: "oral or written statements or representations that are (a) contrary to the truth or fact and not in accordance with reality or actuality; (b) usually implied either conscious wrong or culpable negligence; (c) has a striker and stronger connotation, and (d) is not readily open to interpretation..."

Misleading information: "may essentially include oral or written statement or representation that are: (a) capable of giving wrong impression or idea, (b) likely to lead into error of conduct, thought or judgement (c) tends to misinform or misguide owing to vagueness or any omission (d) may or may not be deliberate or conscious, and (e) in contrast to false information, it has less erroneous connotation and is somewhat open to interpretation as the circumstances and conduct of a party may be treated as relevant to a certain extent".

13. While evaluating the "net general impression" or dominant message, the Commission examines express and implied claims contained in an advertisement or promotional campaign and holds the advertiser liable for both. The advertiser is liable for all such claims if the same are false and/or misleading or lack a reasonable basis. Neither proof of intent to disseminate a deceptive claim, nor evidence that consumers have actually been misled is required for an act or omission to constitute violations under Section 10(2)(b) of the Act as



held by the Commission earlier in Case of M/s Eden Builders (Private) Limited (File No. 191/OFT/Eden Life/CCP/2015).¹

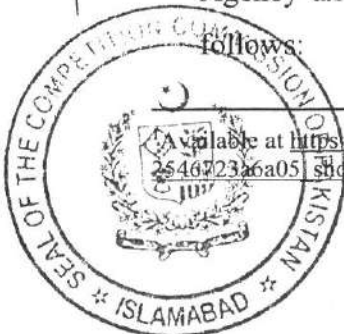
14. The Punjab Housing and Town-Planning Agency was established under the Punjab Housing and Town-Planning Agency Ordinance, 2002 (Ordinance NO. LXXVIII of 2002). The Preamble of the Ordinance reads as follows:

"Whereas it is expedient to establish the Punjab Housing and Town-Planning Agency in order to provide shelter to the shelterless and to establish a comprehensive system of Town Planning at provincial, regional, district, tehsil and union council level in order to ensure systematic, integrated growth of urban and rural areas in the Province of the Punjab and to make provisions for matters connected therewith and ancillary thereto;"

15. In exercise of the powers conferred under section 37 of the *Punjab Housing & Town-Planning Agency Ordinance, 2002* (Ordinance LXXVIII of 2002), Government of the Punjab notified the *Punjab Housing & Town-Planning Agency (Affordable Private Housing Scheme Rules) 2020* on **21.10.2020**. The said rules defined the **"affordable housing"** as construction of low cost houses in the shape of quarters, combined houses, incremental houses, row houses, flats or apartments for low or middle income group having maximum plot size up to 5 marlas and 1000 sft. covered area, in case of apartments and according to the rules ibid a **"housing scheme"** means a scheme containing 80% of the residential area of scheme for the sponsor and 20% area reserved for **"NPHP"** whereupon plots or constructed housing units upto 5 Marlas or mixed use apartments having size upto 1000 sft with minimum 3 stories including ground floor, allowing commercial use up to first floor.

16. According to Rule 44 of the *Punjab Housing & Town-Planning Agency (Affordable Private Housing Scheme Rules) 2020* no provision of these rules shall be relaxed for any reasons. Rule 10(3) of the subject rules allows the sponsor to start marketing and sale of plots after the technical sanction of scheme subject to compliance of Rule 32 but the sponsor **cannot be absolved of the responsibility to comply with the marketing requirements under any other law** and shall not market or sell any mortgaged plot unless it is redeemed by the Agency and the plots are released by executing a Redemption Deed. Rule 32 reads as follows:

Available at https://appadmiinccp.cc.gov.pk/ccporders/335cc472-faa3-44d7-98a2-2546223a6a05/show_cause_notice_issued_to_edan_builders.pdf



32. Advertisement. -(1) Notwithstanding anything in rule 10, a sponsor, shall not advertise sale of plots or housing units or apartments in print or electronic media or in any other manner, without prior approval of the Agency.

(2) The Agency may, within fifteen days after the fulfillment of the conditions prescribed for the purpose, grant no objection certificate to a sponsor under sub-rule (1).

(3) **The contents of advertisement shall include:**

(a) total area of the scheme along with location plan;

(b) total number of residential and commercial plots with area;

(c) total number of houses/apartments being offered under Prime Minister Naya Pakistan Housing Program;

(d) detail of public building sites;

(e) detail of mortgaged plots;

(f) period for completion of development works;

(g) name of sanctioning Agency and sanction number and date;

(h) procedure of allotment through balloting or otherwise; and

(i) details of plots to be sold.

17. Naya Pakistan represented the former federal government's overall vision for Pakistan, encompassing various development initiatives, including affordable housing. Naya Pakistan Housing Program (NPHP) was launched on 17 April, 2019 in Islamabad as a specific program within the Naya Pakistan vision, aimed at providing housing for low and middle-income families. Naya Pakistan Housing & Development Authority (NAPHDA) was established as a corporation on 15 January 2020 through an Act of Parliament for the purpose of planning, development, construction and management of real estate development schemes and projects including housing. Specifically, NAPHDA handled land procurement, town planning and infrastructure development for NPHP projects. Additionally, it played a role in facilitating project execution and providing cost subsidies and mortgage facilities to low-income beneficiaries.

18. Kingdom Valley, Mouza Choora Chakri Interchange Rawalpindi measuring 103 Kanal with 33 houses of 3 Marla and 15 units of 5 Marla each is available at Serial No. 03 in the list of Affordable Private Housing Societies of Punjab Housing and Town Planning Agency (PHATA).² According to the Advertisement for the allotment of 34 x 3.5 Marla and 20 x 5 Marla houses in Kingdom Valley, Phase-I, Tehsil & District Rawalpindi the last date for submission of applications was **06 November, 2022**. All the units were to be completed and handed over within one year.³ The Application Form was to be submitted in the office



² https://phata.punjab.gov.pk/approved_housing_societies

³ <https://phata.punjab.gov.pk/files/NPHP%20RWP%202022.pdf>

of Deputy Director, PHATA, Gulzar-e-Quaid, Rawalpindi.⁴ The houses were meant to be allotted by PHATA through an open draw to the eligible residents of Punjab Province under the Naya Pakistan Housing Program (NPHP).

19. The perusal of materials available on record revealed that after launching the Project, the Respondent engaged in an extensive advertising campaign, promoting the Project as Kingdom Valley Islamabad, hence, located in Islamabad Capital Territory. Moreover, the Respondent claimed affiliation with the Naya Pakistan through NPHP and NAPHDA and asserted that the project was NOC approved. The details of the pictorial evidence presented in the Enquiry Report are as under:

REFERENCE PARA/ PAGE	DESCRIPTION OF CLAIMS/ ADVERTISEMENT	SOURCE DATED
Para 2.2 Page 3	First: Kingdom Valley Islamabad in Official Collaboration with Naya Pakistan 2021 Project Second: Kingdom Valley with logo of Naya Pakistan and Government of the Punjab (PHATA)	Facebook 07.04.2021 24.04.2021
Para 2.2 Page 4	First: Kingdom Valley Islamabad Coming Soon Second: Kingdom Valley (Farmhouse), logos of NOC Approved and Government of the Punjab	Facebook 27.07.2020
Para 5.7 Page 8	Kingdom Valley Islamabad Coming Soon	Facebook 07.08.2020
Para 5.7 Page 9	First: Bulldozer displaying Kingdom Valley Islamabad Second: Kingdom Valley Islamabad, logo of Naya Pakistan	Facebook 05.05.2021 21.10.2021
Para 5.7 Page 10	First: Kingdom Valley Islamabad with Picture & Message of Ex-Prime Minister and logo of Naya Pakistan Second: Revised Prices in Kingdom Valley Islamabad, logo of Naya Pakistan	Facebook 02.10.2021 28.07.2021
Para 5.9 Page 11	First: Billboard of Kingdom Valley Approved by PHATA Second: Kingdom Valley Islamabad, logo of Naya Pakistan and Government of the Punjab	Billboards at Site Office 23.11.2022
Para 5.9 Page 12	First: Billboard of Kingdom Valley Islamabad Approved by Government of Punjab (PHATA) Second: Billboard of Kingdom Valley Islamabad	Billboard at Site Office 23.11.2022 Billboard at Corporate Office, DHA, Lahore 04.01.2023
Para 5.10 Page	Billboard of Kingdom Valley Islamabad	



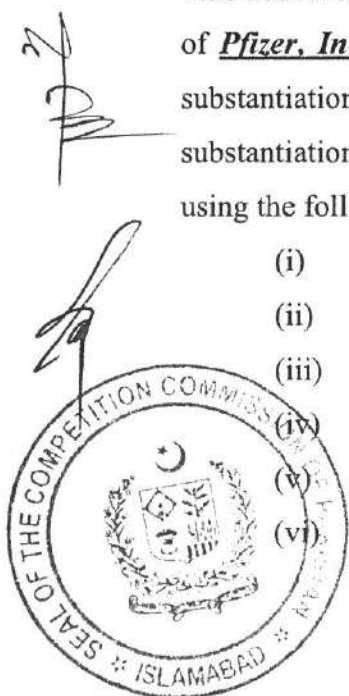
<https://phata.punjab.gov.pk/files/NPHP%20RWP%202022%20Updated.pdf>

Para 5.10 Page 13	Kingdom Valley (Farmhouse), logos of NOC Approved and Government of the Punjab	Billboard at Corporate Office, DHA, Lahore 04.01.2023
Para 5.32 Page 17	Kingdom Valley (Farmhouse), logos of NOC Approved and Government of the Punjab	Project Website 16.04.2023
Para 5.32 Page 18	First: Kingdom Valley, PHATA, Naya Pakistan, NOC Islamabad Second: Kingdom Valley, logo of NOC Approved	Facebook 07.12.2022 30.05.2023

20. The Project advertisements through social media, billboards, and flyers depicted it as Kingdom Valley Islamabad with its location in Islamabad Capital Territory which is material misrepresentation as it can mislead the consumers regarding the Project's actual location and territorial jurisdiction for the purpose of future prospects, local taxation, public services and civic amenities to be provided. . The Enquiry Report established that the advertised proximity to key landmarks in Islamabad lacked a reasonable basis. The Report pinpointed that under the CDA Ordinance, 1960 and ICT (Zoning) Regulations, 1992 launching of private housing schemes within Islamabad needed prior approval from the CDA, whereas the Respondent had no such approval.

21. The Commission in its Order dated 23.02.2010 passed in the matter of **M/s Procter and Gamble Pakistan (Private) Limited 2010 CLD 1695**, held that the "advertisers must have some recognizable substantiation for claims made prior to making it an advertisement". This doctrine has been derived from U.S. jurisprudence on the subject, particularly the case of **Pfizer, Inc., 81 F.T.C 23 (1972)**, which requires advertisers to possess the level of substantiation expressly or impliedly claimed in the advertisement. If no specific level of substantiation is stated, the reasonableness of a claim is determined on a case-to-case basis using the following six 'Pfizer factors':

- (i) the type of claim;
- (ii) the benefits if the claim is true;
- (iii) the consequences if the claim is false;
- (iv) the ease and cost of developing substantiation for the claims;
- (v) the type of product; and
- (vi) the level of substantiation, experts in the field would agree is reasonable.



22. The factual position of the Respondent has been analyzed in the above paragraphs and now we may proceed to determine the veracity of its advertising claims or any recognizable substantiation behind the same herein below:

- a. **Name of the Undertaking:** The Respondent was incorporated as M/s Kingdom Valley (Pvt.) Limited with the Securities and Exchange Commission of Pakistan under the Companies Act, 2017 vide License No. 015073 dated 04.05.2020. Control Area Notification for Kingdom Valley, Rawalpindi was issued under Rule 10(2)(c) of PHATA (Affordable Private Housing Scheme Rules), 2020 vide PHATA Endst No. AP-I (1377)-2021/128, duly published in the Punjab Gazette on 26.04.2021. The housing scheme was sanctioned as Kingdom Valley Phase-I located at Mouza Chooria Tehsil & District Rawalpindi by PHATA on 05.07.2022 under the rules ibid subject to 23 inviolable conditions. The undertaking was, therefore, M/s Kingdom Valley (Pvt.) Limited or Kingdom Valley Rawalpindi/Phase-I and not Kingdom Valley Islamabad;
- b. **Location of the Undertaking:** According to the above sanction order the housing scheme measuring 103-Kanals 15 Marlas and 38 Sft was located at Mouza Chooria Tehsil & District Rawalpindi. While the Site Office of the scheme was established in Mouza Chooria, the Corporate Office of the Undertaking was situated at 172-Y Block, Commercial Area, Phase-III, DHA, Lahore. Neither the housing scheme nor its site office or the headquarters was located inside the Islamabad Capital Territory. However, the Respondent started advertising itself as Kingdom Valley Islamabad through billboards, website, Facebook pages and TVCs on Geo News and Lahore Rang in mid-2020.
- c. **Association with Naya Pakistan Housing Program (NPHP) and Naya Pakistan Housing & Development Authority (NAPHDA):** The Undertaking expressly claimed to be associated with Naya Pakistan Project 2021 (the Vision of the former Prime Minister) being implemented through NPHP and NAPHDA. The Enquiry Report captured its posts dated 27.07.2020, 07.08.2020, 07.04.2021, 24.04.2021, 05.05.2021, 28.07.2021, 02.10.2021, 21.10.2021, 23.11.2022, 04.01.2023, 16.04.2023 and 30.05.2023 displaying associations of the Kingdom Valley Islamabad with PHATA, Naya Pakistan/Naya Pakistan Project 2021 and Naya Pakistan Housing Program well before its sanction by Punjab Housing and Town Planning Agency (PHATA) on 05.07.2022 under the Affordable Private Housing

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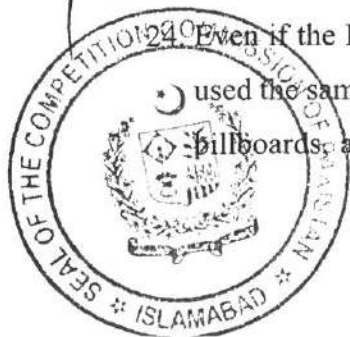


Scheme Rules, 2020 notified in the Punjab Gazette vide Notification No. SO (H-II) 2-1/2019 dated 20.10.2020;

- d. **Association with Punjab Housing and Town Planning Agency (PHATA);** It stood established that Kingdom Valley Phase-I measuring 103-Kanals 15 Marlas and 38 Sft located at Mouza Chooria Tehsil & District Rawalpindi was sanctioned by PHATA on 05.07.2022 under the Affordable Private Housing Scheme Rules, 2020. Conversely, the scheme was advertised and promoted as Kingdom Valley Islamabad without any reference to Phase-I, area of the site plan approved and actual location of the scheme in violation of Rule 32(3) of the rules ibid. The claims of such association started to be advertised even before its materialization and continued after its scheduled conclusion; and
- e. **NOC Approved:** Whereas, Phase-I of the housing scheme sponsored by M/s Kingdom Valley (Pvt.) Limited had been approved by PHATA, Government of the Punjab but no NOC was issued for any Phase of the Kingdom Valley Islamabad. The net general impression of NOC Approved Kingdom Valley Islamabad is that all the phases of the scheme had been approved by the CDA which is contrary to the situation on ground. Even Phase-II and III of Kingdom Valley located at Mouza Chooria Tehsil & District Rawalpindi were yet to be approved by PHATA what to talk of unqualified NOC of CDA.

23. The defence of the Respondent that it does not own or operate any Facebook page associated with the marketing and promotion of the Project and claim to have used only newspapers and websites for advertising without employing third parties for promotional activities necessitated substantiation by the Respondent or verification by the Bench. However, during the hearing, the Respondent admitted that no action had been taken by it to address or report any unauthorized pages falsely representing the project. This admission raises serious concerns regarding the Respondent's lack of due diligence and oversight in ensuring that the consumers are not misled by false and misleading online promotions on its behalf. Evidently, the Facebook page of the Respondent has 76K likes and 82K followers (at the time of compiling the Enquiry Report) which is impossible to be overlooked by the Respondent.

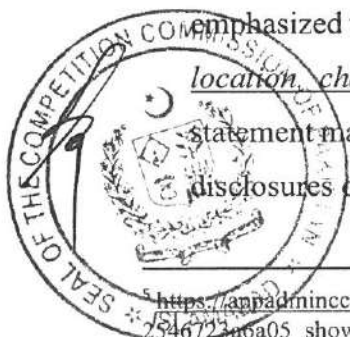
24. Even if the Respondent does not operate the Facebook page(s) in question, it has actively used the same claims and representations in its own advertising materials, including flyers, billboards, and print advertisements. The Respondent did not dispute ownership of these



marketing materials during the hearing, reinforcing the conclusion that the said claims were not merely the result of unauthorized project promotion by third parties but were part of the Respondent's broader marketing strategy. An undertaking cannot evade responsibility for misleading claims or for the dissemination of misleading information that directly benefits its business unless it demonstrates of having undertaken active measures to prevent the circulation of such deceptive marketing claims.

25. In the present digital age, businesses have a duty to monitor and safeguard their brand representation, particularly in cases where unauthorized advertisements or misleading claims may influence consumer decisions. The Respondent's failure to take any remedial action, such as issuing disclaimers, filing complaints with relevant social media platforms, or initiating legal proceedings against unauthorized entities, demonstrates a lack of responsibility in preventing consumer deception. Given that the Respondent may have benefited from widespread social media promotions, its inaction cannot absolve it from liability. The Bench is, therefore, of the view that the Respondent's failure to act against widespread social media promotions reinforces the net general impression that the social media was actually following the marketing strategy of the Respondent to promote *Kingdom Valley Islamabad*.

26. The Respondent's plea that there was no intention to mislead or defraud consumers along with its expressed willingness to rectify ambiguities is duly noted. However, the Commission in its order passed *In the Matter of M/s Eden Builders (Private) Limited* clearly held that the "intent" is not a determinative factor in establishing a violation of deceptive marketing provisions. What matters is the effect of the misrepresentation on consumers, regardless of whether it was deliberate or inadvertent.⁵ Therefore, the Respondent's plea does not absolve it from liability for dissemination of any misleading information. In this regard, the Australian Competition and Consumer Commission (ACCC) in its guidelines on deceptive practices in the real estate industry has also emphasized that real estate agents must ensure that *they do not make false claims regarding location, characteristics, or use that can be made of the land.*⁶ A false or misleading statement made at the first contact with consumers cannot be negated by later clarifications, disclosures or rectification.



⁵ <https://appadminccp.cc.gov.pk/ccporders/335cc472-faa3-44d7-98a2-7546723a6a05> show cause notice issued to eden builders.pdf

⁶ <https://www.accc.gov.au/consumers/specific-products-and-activities/real-estate>

27. Consequently, the Bench remains firm in its view that the absolute claims regarding the location of the Respondent's Project lacked a reasonable basis. The Respondent's explanations do not provide sufficient justification for making such claims without appropriate qualifiers. The claims of the undertaking about its name and location is thus misleading as it has clear aim to misinform and misguide consumers due to its deceptive nature. Given these circumstances, the Bench is inclined to proceed in accordance with the relevant provisions of the Competition Act to address the deceptive marketing concerns identified.

28. Evidently, a market comprises of actual as well as potential buyers (consumers) and the businesses tailor/customize their products and services to attract the prospective consumers. Considering this economic reality, we are of the considered view that the Respondent's claims about its association with Naya Pakistan, NPHP, PHATA and its status as NOC Approved Kingdom Valley Islamabad are deficient, faulty, false and misleading, as the same are contrary to the facts and lack any reasonable basis. These claims were made knowingly, and their meaning is not open to interpretation, as they create a definitive and misleading net general impression under the given circumstances.

29. The advertised claims of the Respondent have the potential to directly or indirectly mislead actual or potential consumers by implying that the Project is an officially approved and regulated Islamabad based housing scheme with affiliations that did not exist. This could impair the judgment of prospective buyers or investors especially overseas Pakistanis, leading them to make decisions based on inaccurate or incomplete information. The Respondent's marketing materials, including billboards and other advertisements, prominently featured the Project's name alongside misleading representations but failed to provide essential clarifications regarding its actual status. Such omissions have the effect of misguiding consumers by presenting an incomplete or deceptive picture of the Project. Based on the foregoing, the Bench is of the considered opinion that the Respondent's representations, omissions, and advertising practices are highly capable of misleading consumers.

30. While, the consumers may fall prey to deceptive marketing in consumer goods as well as for high-value items like real estate. However, the degree of loss is much greater in the latter case, as highlighted by the Commission's observations *In the matter of M/s Vision*

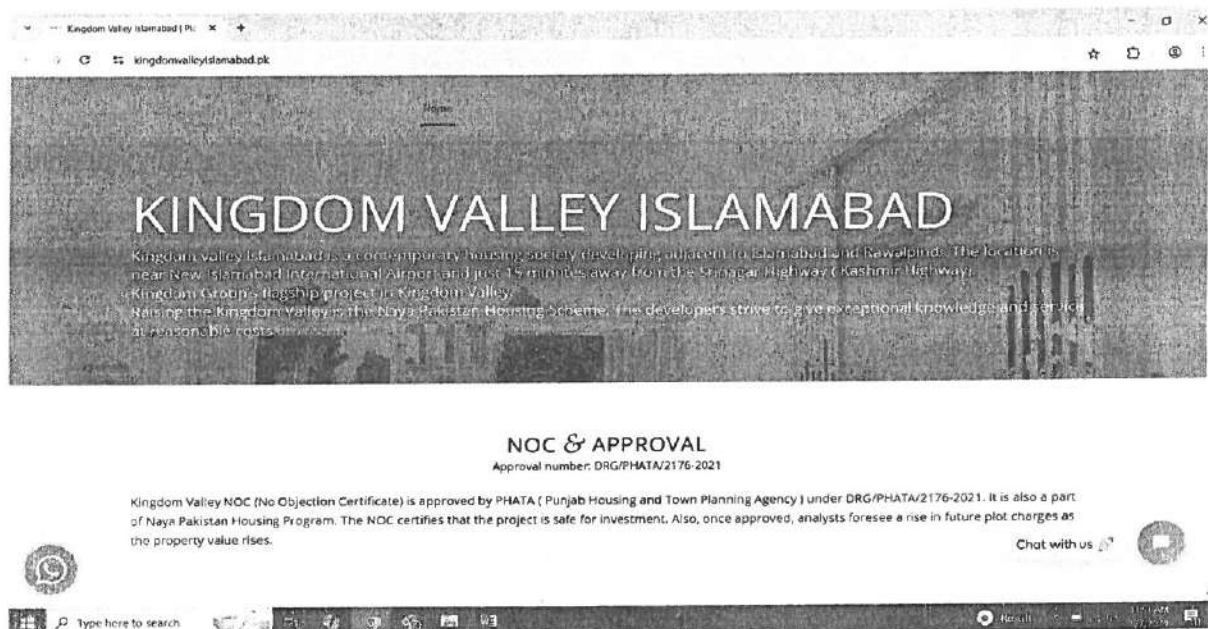
Developers (Pvt.) Limited⁷. In this case, the Commission noted that "for the majority of population in this country, it almost takes a lifetime of savings or obtaining credit or loans from banks to make an investment such as the acquisition of a plot to secure a more stable future. Such a transactional decision is a much more complicated and difficult one as against buying a household or shelved product from a supermarket. Therefore, we cannot stress enough, the higher burden placed on undertakings which operate in the real estate market, in relation to the accuracy of any claims or representations that they make in the course of their marketing campaigns".

31. M/s Kingdom Valley (Pvt.) Limited started advertising itself as Kingdom Valley Islamabad immediately after its incorporation and well before the promulgation of the PHATA Affordable Private Housing Scheme Rules 2020 on **21.10.2020** and formal sanction of Kingdom Valley Phase-1 located at Mouza Chooria Tehsil & District Rawalpindi on **05.05.2022**. Neither the scheme is located in Islamabad nor is its Corporate Office situated therein but it continues to advertise itself as Kingdom Valley Islamabad. Similarly, its promotional materials omit to make any reference to the approval of only Phase-1 of the Project or its location in Rawalpindi. NOC Approved Kingdome Valley Islamabad duly affiliated with Naya Pakistan Housing Program and the Naya Pakistan Housing and Development Authority effectively conveys a net general impression that it is a government approved low cost housing scheme situated in Islamabad Capital Territory.

32. The Bench carefully examined Respondent's plea for a lenient approach to be taken by the Commission on the grounds that it has rectified all the factually incorrect claims, removed the misleading pictures and had not derived any benefit out of it at all. The facts however suggest otherwise since the acts and omissions of the undertaking constituted a comprehensive scheme of deceptive marketing and dissemination of false information. It adopted a name distinctly different from its corporate identity and the name against which it got the NOC of its housing scheme with a view to defraud the consumers about its location. The claims of its associations with PHATA and Naya Pakistan started to be advertised even before the materialization of such relationships and continued after their scheduled conclusion. It got its NOC from PHATA, Government of the Punjab and claimed to be Kingdom Valley Islamabad without approval of CDA. It continues to have a dominant presence on the internet. Its official website is being operated from the URLs

⁷ https://appachinnccp.cc.gov.pk/ccporders/efc9257a-f78f-4a1b-94ea-6ad8ba5eb1c9_ms_vision_developer.pdf

(<https://kingdomvalleyislamabad.pk/>), (<https://kingdomvalleyislamabads.com.pk/>), with an Official Facebook Account hosted at (<https://kingdomvalleyislamabads.com.pk/>) and an Instagram Account at(<https://www.instagram.com/kingdomvalleyislamabad.pk/?hl=en>) and many more. Hence, the claim of having removed all the factually incorrect claims and the misleading pictures is deceptive and misleading. A screenshot of its official website taken on 07.05.2025 is given below:



33. Considering the overall circumstances of the case, the Bench concludes that the portrayal of the Respondent's project as a collaboration with the Federal and Punjab Governments for the provision of affordable housing units distorted the market competition aimed at gaining an unfair competitive advantage over other undertakings in the real estate sector besides deceiving the potential consumers about the real identity of the Respondent and the character, properties, suitability for use, or quality of its houses and plots on sale. Such conduct falls within the ambit of deceptive marketing practices prohibited under the Act. Accordingly, we hold that the Respondent has engaged in deceptive marketing practices in violation of Section 10(2)(b), read with Section 10(1) of the Act, by making misleading claims in its advertising and promotional campaigns for its housing scheme.

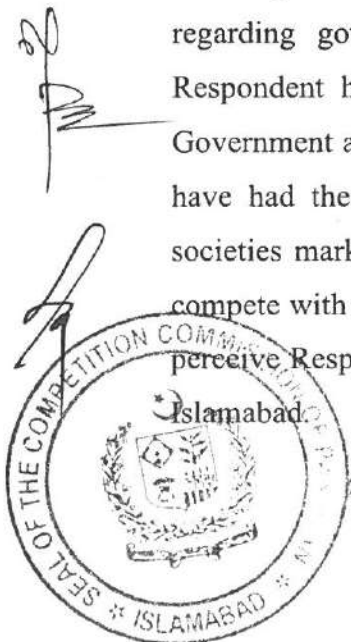


B. Whether the false and misleading information distributed by the Respondent was capable of harming the business interests of any other undertaking(s) in terms of Section 10(2)(a) of the Act?

34. As established above, the Respondent advertised that its project was associated with Punjab Housing and Town Planning Agency (PHATA), Government of the Punjab, Naya Pakistan, NPHP and Islamabad City. This representation, however, was false and misleading since at the time of marketing no approvals had been obtained by the Respondent. In order to determine whether the deceptive marketing and dissemination of false information on part of the Respondent was in violation of Section 10(2)(a) of the Act, the Bench will examine if the Respondent's advertisements and promotional material was "*capable of harming the business interests of another undertaking*".

35. The real estate sector provides a significant investment platform for the general public, where consumers' decisions are largely influenced by legitimacy, safety, and official endorsement of the relevant housing schemes/projects. While the counsel for the Respondent vehemently denied having caused any harm under the injurious falsehood to any undertaking, there is a strong possibility that when a housing project falsely claims to be located in Islamabad Capital City instead of its actual location (Rawalpindi) and affiliated with the government initiatives such as Punjab Housing and Town Planning Agency (PHATA) under the Affordable Private Housing Scheme Rules, 2020, the Naya Pakistan Vision of the former Prime Minister of Pakistan and NPHP, it creates an unfair competitive advantage and may adversely impact the other projects of similar nature.

36. The Respondent's false claim of being associated with the above initiatives of the Punjab and Federal Governments for the provision of low-cost housing in Islamabad was likely to attract investors and consumers to invest in the Project of the Respondent, who might have otherwise considered other competing projects without such a misleading government endorsement. Therefore, rather than competing with other similar undertakings on merit, the Respondent adopted a strategy to influence the consumers' choice by deception regarding government endorsement and geographical location of its Project. The Respondent has put itself forward by marketing its project being sanctioned by the Government and giving the impression that the same is situated in Islamabad. This might have had the effect of distorting competition within Pakistan because other housing societies marketing similar projects would be at a serious disadvantage and not able to compete with the Respondent since the unsuspecting public would believe, understand or perceive Respondent's project to be genuinely backed by the Government and located in



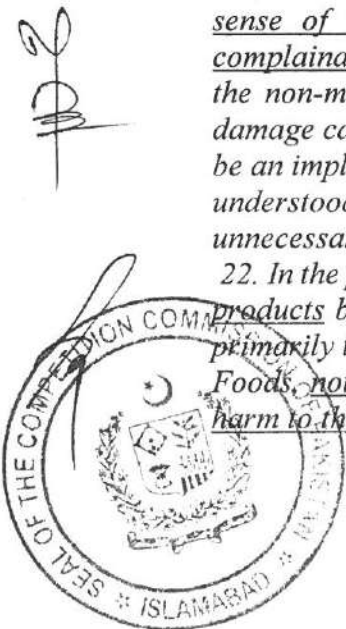
37. In order to establish violation of section 10(2)(a) of the Act the Commission had been consistently relying upon the findings of the Honorable Supreme Court of Pakistan in A. Rahim Foods (Pvt.) Limited and another v. K & N's Food (Pvt.) Limited and others 2023 CLD 1001 at paras 20-22 (*A. Rahim case*). In this case, the Apex Court held that:

"19. ... The Commission opined that though the distribution of false or misleading information may take place in numerous forms, the parasitic copycat packaging which causes deceptive confusion to the consumers also amounts to the distribution of misleading information capable of harming the business interest of another undertaking within the meaning of Section 10(2)(a) of the Act, in addition to being culpable under Section 10(2)(d) of the Act. The Commission observed that a contravention of Section 10(2)(d) will almost in every case lead to a consequent contravention of Section 10(2)(a) of the Act unless there exist exceptional circumstances in a particular case that warrant otherwise. On the other hand, the Tribunal held that as Rahim Foods had not distributed any false or misleading information regarding the K&N's Foods products, the contravention of Section 10(2)(a) of the Act was not made out.

20. The general difference between misrepresentation in a passing-off action and misrepresentation in an injurious falsehood action is that in the former action, the misrepresentation is made by the defendant concerning his own goods while in the latter it is made by the defendant concerning the goods of the plaintiff. In passing-off action, the defendant by misrepresentation primarily attempts to take undue benefit of the reputation (goodwill) of the goods of the plaintiff though he thereby also causes damage to the business of the plaintiff indirectly; but in an injurious falsehood action, the direct and express purpose of the misrepresentation is to cause damage to the reputation (goodwill) of the goods of the plaintiff though it may also impliedly or indirectly benefit the business of the defendant.

21. There is nothing in the language of section 10(2)(a) of the Act that suggests that the legislature has changed therein the meaning of 'misrepresentation' as understood in common law action for injurious falsehood. On the contrary, the use of words 'false or misleading information' in section 10(2)(a) shows that the legislature has intended to retain the same meaning; for in common law both the terms 'false' and 'misleading' are used in injurious falsehood actions for a representation to be taken as 'misrepresentation'. Further, the use of phrase 'harming the business interests of another undertaking' in section 10(2)(a) of the Act, and not in section 10(2)(d), denotes that the said phrase has been used in the sense of causing express and direct harm to the business interests of the complainant undertaking as it is understood in an injurious falsehood action. And the non-mentioning of this phrase in section 10(2)(d) of the Act shows that the damage caused to the business interests of the complainant undertaking is taken to be an implied and indirect effect of the fraudulent use of its trademark, etc., as it is understood in a passing-off action, which the legislature has considered unnecessary to be expressly mentioned.

22. In the present case, Rahim Foods made 'misrepresentation' concerning its own products by fraudulent use of the K&N's Food products labelling and packaging primarily to take advantage of the reputation (goodwill) of the products of K&N's Foods, not concerning the products of K&N's Foods to cause express and direct harm to the business interests of K&N's Foods. Therefore, we find that the view of



the Tribunal is legally correct on the non-applicability of the provisions of section 10(2)(a) of the Act to the facts of the present case."

38. The Apex Court in the judgment *supra* interpreted the words 'false or misleading' in section 10(2)(a) to have the same meaning as given to them in the common law under the concept of 'injurious falsehood'. Further, the phrase 'harming the business interests of another undertaking' has been interpreted in the sense of causing express and direct harm to the business interests of the complainant undertaking due to the respondent's act of copying its packaging, as happens in an injurious falsehood action. However, the facts of the instant matter are distinguishable from the facts of *A. Rahim case* which was initiated upon a complaint filed by K&N against the respondent undertaking for wrongly using the labelling and packaging of the complainant. Whereas, the instant case stems from *suo moto* proceedings initiated against the Respondent to protect the market from deceptive practices in the interests of 'public at large' which includes both the consumers and the competitors. Harm to the public at large differs from harm to one specific undertaking, primarily, due to the scope and nature of the harm, the former requiring a broader impact and often involving public interest considerations.

39. The *A. Rahim case* is silent about the elements/factors that constitute the 'capability of harming'. The honorable Supreme Court has not interpreted this phrase or provided guidance on what constitutes conduct that is 'capable of harming' competition. Nonetheless, under established principles of statutory interpretation, each word in a statute must be given effect, and no word is treated as redundant. No word used by lawmakers is either redundant or can be substituted, added or read in isolation/deleted from a piece of legislation. Reliance is placed on *Hasnat Ahmad Khan v Institution Officer* 2010 SCMR 354. While interpreting statutes, it is presumed that the legislature choose its words carefully, therefore, if a word or phrase had been added somewhere, such addition was not to be deemed redundant, conversely, if a word or phrase had been left out from somewhere, such omission was not to be deemed inconsequential. Change in language (of a statute) implied a change in the intent. Reliance in this regard is placed on *Reference No. 1 of 2010 PLD 2013 SC 279*. Therefore, in the absence of judicial interpretation, the phrase 'capable of harming' must be understood in a way that preserves its legislative intent and ensures that it is not rendered meaningless.

40. The phrase 'capable of harming' is not defined in the Act. Therefore, in accordance with the settled principle of statutory interpretation, one can rely on the dictionary meaning,

where a statutory term is undefined, its ordinary and natural meaning, as reflected in the standard dictionaries may be relied upon. The phrase ‘capable of’ according to dictionary would generally mean ‘susceptible to’, ‘having the potential to’ or ‘able to’ etc. Accordingly, conduct need not to result in actual harm; it is sufficient if it has the potential or tendency to cause harm to competition. Reliance can also be placed on The Bombay Gas Co. Ltd v. R.N. Kulkarni AIR 1965 Bombay 172, Municipal Corporation of Delhi v. Shashank Steel Industries (P.) Ltd and etc. AIR 2003 Delhi 110 and Jamnabai w/o Hoondraj v. Jethamal and others AIR 1937 Sind 316, where the phrase ‘capable of’ was not defined in the statute, so the superior courts used the dictionary definition or the ordinary signification of the expression when interpreting it.

41. One needs to underscore that the phrase/expression in section 10(2)(a), “capable of harming the business interests of another undertaking”, does not mean that the causation of actual harm needs to be established. The words ‘capable of’ would denote “capacity” or “propensity” to cause a particular effect, albeit “harm” in the context of section 10(2)(a). This “capacity”, “propensity” or “capability” will have to be adjudged through an objective test, namely, as to whether a common intelligent man would construe the impugned advertisement to be causing or have caused harm to the business interests of another undertaking. The advertisement in question, reflected availability of official approvals. Applying the latter ‘objective test’ to the said advertisement would show that it (i.e. advertisement) is *ex facie* capable of afflicting untold harm and damage not only to the public at large, which would have invested in a fake real estate project, perceiving it to be genuine; but so also to other real estate projects, wherein the investments by the public at large would be diverted away into the project in question.

42. A similar approach was adopted by the Commission in its recent decision passed In the Matter of Show Cause Notice issued to the British Lyceum Private Limited⁸ on 19.05.2025 relying upon the Honourable Supreme Court’s decision of a three member bench in the case of M/s Options International (SMC-Pvt.) Ltd through its CEO Appellant v. The Competition Commission of Pakistan through its Registrar and another PLD 2024 899 SC (Options case). In this case the matter before the Commission, and thereafter, before the Competition Appellate Tribunal (CAT), was with regard to the use of the Starbucks name and logo by M/s Options International and selling its products under such

⁸ <https://appadminccp.cc.gov.pk/ccporders/fcb23cf7430ab17713f0edea53a03837.pdf>

name despite that it had no authorization/licensing arrangement with the Starbucks to sell and promote its business using the STARBUCKS MARKS. The Commission held that the Options' conduct is liable to harm the business interest of Starbucks and other competing coffeehouses in Pakistan which constitutes a contravention of Section 10(2)(a) read with Section 10(1) of the Act. CAT upheld the order of the Commission. Options appealed to the Supreme Court wherein it contended that since Starbucks does not have any outlet in Pakistan, nor has authorized anyone to use its name, logo and products in Pakistan, therefore, the Options was not in competition with the Starbucks, its authorized user(s) and/or its products. The Supreme Court while disagreeing with Options contention held as follows:

"The appellant had put itself forward by selling its own products under the international brand name Starbucks and by using its logo, which must have had the effect of distorting competition within Pakistan because a local vendor selling similar products, as those being sold by the appellant, would be at a serious disadvantage and not able to compete therewith since the unsuspecting public would believe, understand or perceive the same to be the genuine products of [Starbucks]."

43. In light of the judgment in the **Options case** and the distinguishing features of the matter at hand, the Bench is of the view that the *A. Rahim case* is not applicable to the facts of the present case. Respondent's actions indeed fall within the ambit of section 10(2)(a) of the Act particularly in relation to the false and misleading advertisement which was **capable of** harming business interest of other undertakings. Unlike, *A. Rahim case*, which concerned direct and express harm to a specific complainant, the present case involves conduct falling within the scope of Section 10(2)(a) of the Act, particularly, misrepresentations '*capable of harming*' the business interests of competing undertakings. The Respondent's false and misleading claims had the potential to distort competition, mislead consumers and adversely affect competitors within the relevant market.

44. In light of the foregoing analysis, the Bench holds that by falsely projecting governments' endorsements as affordable private housing scheme and falsely claiming to hold a valid NOC from the CDA for a location within Islamabad, when no such approval exists, the Respondent secured an unfair competitive advantage over other law-abiding undertakings in the real estate market. The conduct of the Respondent had the clear potential to distort consumers' choices and harm competitors' business interests, and thus amounts to a contravention of Section 10(2)(a) of the Act.

45. Notwithstanding the above, the Bench also like to bring this on record that the Respondent was directed during the hearing to provide the following information within a fortnight for the consideration of the Bench:

- (i) Audited financial statements to determine the financial standing and transparency in the operations of the Undertaking;
- (ii) Compliance report detailing adherence to the conditions of NOC imposed by PHATA under their rules and regulations; and
- (iii) Additional defence, if any, to support, justify or deny alleged claims attributed to the Respondent.

46. Thereafter, the Commission directed the Respondent vide letter bearing reference number F.No.422/KingdomValley/OFT/CCP/2022 dated 30.01.2025 to submit the aforementioned information. In response thereto, the Respondent through Naqvi & Co. (Advocates and Legal Consultants) submitted it's Written Submissions/Response vide letter dated 10.02.2025 without providing any of the documents requisitioned by the Bench. Thereafter, a reminder was also issued on 24.02.2025, once again directing the Respondent to provide the requisite information at the earliest for consideration of the Bench. However, despite clear instructions and ample time provided, the Respondent failed to comply with the directions of the Bench. No Audited Financial Statements, Compliance Report detailing adherence to the conditions of NOC imposed by PHATA under their rules and regulations, or any supplementary defence were submitted within the given time period and even after two reminders. Consequently, the Registrar Office approached SECP with the request to provide Annual Financial Statements of the Respondent and in response thereto the Assistant Registrar, SECP informed vide letter bearing No. ARI/34 Cos dated 03.03.2025 intimated that M/s Kingdom Valley (Private) Limited had not filed the subject statements for the years 2018-19 to 2023-24 with the SECP. The Respondent's repeated non-compliance with the Commission's lawful directions, as well as the statutory filing obligations with the SECP, demonstrates a serious lapse in due diligence and compliance of statutory requirements by the Respondent. The conduct of respondent further reinforced concerns regarding the transparency in its operations, dented the credibility of its submissions and weakened the defence presented in response to the allegations leveled in



DECISION AND DIRECTIVES

47. The importance of responsible and accurate advertising in relation to real estate should not, in any circumstance, be undermined. The real estate market plays a vital role in the development of any country's economy as number of other associated sectors have close links with this sector. At the same time, the degree of regulation remains inadequate to the extent that bogus housing schemes and deceptive marketing practices continue to harm growth in this sector, ultimately causing a loss to the overall sustainability of Pakistan's economy. The Commission, at the outset, also bears in mind the specific circumstances of consumers that often fall victim to misleading claims in relation to real estate investments they may make. For the majority of the population in this country, it almost takes a lifetime of savings or obtaining credit or loans from banks to make an investment such as the acquisition of a plot to secure a more stable future. Such a transactional decision is a much more complicated and difficult one as compared to buying everyday household product from a supermarket. Therefore, we cannot stress enough, the higher burden placed on undertakings which operate in the real estate market, in relation to the accuracy of any claims or representations that they make in the course of their marketing campaigns.

48. In this case, the Bench considered the seriousness of the infringement, particularly the nature of the deceptive marketing practices, effect on competitors and third parties, and Respondent's refusal to cooperate with the Commission for carrying out its investigations. The advertisement was disseminated widely through digital and print media. Accordingly, there is dire need to deter the Respondent and other such undertakings from committing such deceptive marketing practices in future in order to protect the market integrity and consumers' interests. The quantum of the penalty has been determined after taking into account all the relevant factors as enumerated in CCP, Fining Guidelines. Deceptive marketing and dissemination of false and misleading information appears to be the business strategy of M/s Kingdom Valley (Pvt.) Limited being advertised as Kingdom Valley Islamabad as it started immediately after its incorporation and well before the promulgation of the PHATA Affordable Private Housing Scheme Rules 2020 on 21.10.2020 and formal sanction of Kingdom Valley Phase-1 located at Mouza Chooria Tehsil & District Rawalpindi on 05.07.2022 under the said rules and it continues unabated till today. The deception appears to continue till date as has been established in paragraphs above. Such continuance of the infringement even after the start of investigation is an aggravating factor which is a key consideration for the Bench while determining the quantum of penalty.

49. Keeping in view the above, the Bench is of the considered view that the contravention of Section 10 of the Act stands established.


50. Therefore, the Bench hereby imposes a penalty of PKR 75,000,000/- (Seventy Five Million Rupees) upon the Respondent for violation of Section 10(2)(b) of the Act.

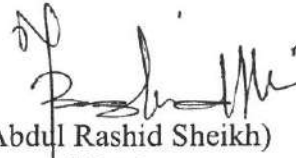
51. The Bench also imposes a penalty of PKR 75,000,000/- (Seventy Five Million Rupees) upon the Respondent for violation of Section 10(2)(a) of the Act.

52. Furthermore, the Respondent is directed to inform the public-at-large through appropriate clarifications published in two (2) Urdu and two (2) English daily newspapers for a period of one (1) week, stating that:

- i) Kingdom Valley Housing Project is located in Rawalpindi, not in Islamabad.
- ii) Kingdom Valley Housing Project has no association with Naya Pakistan Housing Program (NPHP) or Naya Pakistan Housing and Development Authority (NAPHDA).

53. The Respondent is directed to submit the compliance report regarding the above directives and to deposit the penalty amount within Sixty (60) days from the date of this Order. Failure to comply shall render the Respondent liable to a further penalty of PKR 100,000/- (Rupees One Hundred Thousand only) per day from date of issuance of this Order and initiation of criminal proceedings against the Respondent pursuant to Section 38 of the Act.


(Saeed Ahmad Nawaz)
Member


(Abdul Rashid Sheikh)
Member



ISLAMABAD, THE 27th DAY OF MAY 2025.