ORDER

In the Matter of SCN issued to M/s Hi-Tech Lubricants Ltd, Hi -Tech Blending (Pvt.) limited on complaint filed by M/s Chevron Pakistan Lubricants (Pvt.) limited

Competition Commission of Pakistan

www.cc.gov.pk



BACKGROUND

- The Complainant alleged that certain marketing and advertising claims were made by both Respondents for their lubricant products under the brand name 'ZIC' as to the quality, efficacy and fitness of the same, which included unsubstantiated comparisons with other competing products. For instance, "not every engine oil is ZIC oil and no engine oil is better than ZIC oil".
- Unsubstantiated claims were also made in the Respondents' brochures titled 'Shaandaar Gift Scheme', alleging that ZIC oil was 'fuel efficient', 'protects engine', etc.
- The Complainant also alleged that the choice of words such as "Behtareen" in the Respondents' marketing claims amounted to distribution of false and misleading information, having the effect of harming the business interests of the Complainant

Considering the findings and recommendation of the Enquiry Committee, show cause notices were issued to both Respondents.

SCN ISSUANCE DATE: 20 August 2019



FINDINGS OF ENQUIRY REPORT

The claims including "ZIC say behtar koi engine oil nahi", "ZIC bana hai duniya ke behtareen base oil Yubase se", and "Get double protection and extra care with ZIC engine Oil" are without any reasonable basis and prima facie in violation of Section 10(1) of the Act, within the meaning and scope of Section 10(2)(a), 10(2)(b), and 10(2)(c) of the Act.



ISSUES FRAMED BY THE BENCH

In view of the findings of the Enquiry Report and detailed submissions by the parties, the following issues were framed by the Bench:

- Whether puffery is an acceptable defense under the jurisprudence of Pakistan?
- Whether the alleged claims actually fall in the category of puffery or not?
- If claims are puffery, whether there arise question of reasonable basis related to product character, properties or suitability for use?



DATE OF ORDER

15 September 2020



BENCH MEMBERS

Ms. Shaista Bano Ms. Bushra Naz Malik



SECTOR/MARKET

Lubricating oil for automobiles and off-highway engines



NATURE & SECTION VIOLATION

Section 10 of the Act pursuant to Deceptive Marketing Practices violated



Complainant: **1.** M/s Chevron Pakistan Lubricants (Pvt) Limited

Respondent: **1.** M/s Hi-Tech Lubricants Limited **2.** M/s. Hi-Tech Blending (Pvt) Limited



ANALYSIS & FINDINGS OF THE BENCH

['Puffery' is term used to describe wildly exaggerated or vague claims about a product or service that the consumer (in the context) is unlikely to take seriously. Puffery claims are generally allowed and does not warrant enforcement action by the competition agencies, provided that they are not materially misleading.]

- The ordinary consumer in the instant matter was deemed to be vehicle owners and drivers who purchase the product in question. The impugned claims were considered to be mere puffery, being subjective when determining what is 'best' and boastful and exaggerated claims.
- No liability under Section 10 of the Act was made out. The Bench, therefore, disposed of the matter accordingly.

NEWS COVERAGE

Decepuve marketing claims and ad slogans prohibited: CCP

ISLAMABAD: The deceptive marketing claims and advertising slogans which are quantifiable and have material effect on the minds of consumers are prohibited under the competition law of Pakistan.

"If the claim is quantifiable by virtue of data or evidence, then it no longer remains a subjective exaggeration, rather it service that the CCP passes order in matter T

Pakistan

Chevron Pakistan ubricants (Pvt) Limited

omplained to the CCP

M/s. Hi-Tech Blending (Pvt) Limited for their

Competition Act,

certain marketing ad certain marketing ind advertising claims nade by M/s Hi-Tech Lubricants Limited and

eting claims and ad s

Taking into consideration and analysing the arguments from both sides and in light of the Commission's previous judgments and the case law from other jurisdictions i.e. America, Australia, and India, the bench matter of the alleged prima f held that the above-menuioned deceptive adverter claims made by Hi-Tech for claims by M/s Hi-T promoting its products fell unde brand name "Zic." the category of puffery 'Puffery' is term used i describe wildly exaggerated vague claims about a product

Chevron

CCP passes orc matter of alleged d marketing cla ISLAMABAD (APP): The Tech carrying the Urdu by Competition Commission words, "behtar" and ci of Pakistan (CCP) has "behtreen" without any nc Competition Commission words, "behtar" and of Pakistan (CCP) has "behtreen" without any passed an order deciding a reasonable basis and in

د که دهمی بر جنی ت لہیر کی شکایت پر فيهل) معدمان يش.آف ظاف ورزى ب_شيوران نے يد محى شكايت كى مح كم بانى لك كى جانب سے اپنى پراد ك ب ک کردن کے علاق کے بیان کالی کا بیان کے بیان کالی کا بیان کے معام کالی کا بیان کے کی کا بیان کالی کا بیان کالی ک محکم کہ بیان کالی کاب سے المالا کا استعمال اس کی Complained to the CC 10 312 500 بى شىركى شكايت ي مقابل کمپنیوں کی پراڈکٹ سے موازنے کے ب ی فی کو شيوران مترادف ہے۔ می می کی کی جانب سے اس معالم پر بنائی کی انکوائر کی کیٹی کی رپورٹ کے CHE 11117 201938 مالا ہونی کا دور مال ہوت مالا ہونی کا دور کی دور کی دور کی دور کا 11 IT 1 15 11 11 -18-يس اردو ك الفاظ " بمترين س اور پائی אוובייג בקנונו استعال کرتی رہی ہیں جو کہ معطیق ایک کے لاتى كى ماركيتتك مجم فن معلومات کی シリーニ كيس-ى فى فى فرودوس مائيد فردائل ين نچانے کاباعث بن



TO DOWNLOAD THE ORDER

ISLAMABAD: The marketing claims had mpetition Commis- created unsubstantiated mpetition Commis-n of Pakistan (CCP) impression of comparison between Zic and the n of Pakistan (CCP) s passed an order ciding a matter of the eged deceptive adver-ing claims by M/s Hi-sch for its products ider the brand name Zic." competing products, said a press release issued by

Ministry of Commerce. The CCP's enquiry found certain claims of found certain claims of Hi-Tech carrying the Urdu words, "behtar" and "behtreen" without any reasonable basis and in prima facie violation of Section 10 of the Compe-tition Act. On the enquiry's recommenda-tions. a show cause tions, a show cause notice was issued to Hi-Tech and hearings were lubricant products under the brand name, Zic, were deceptive and in violation of Section 10 of held in the matter.

Taking into consideration and analysing the arguments from both arguments from sides and in light of the

tralia, and India, the bench held that the bench above-mentioned claims made by Hi-Tech for promoting its products fell under the category of puffery

'Puffery' is term to describe wildly gerated or vague c about a product vice that the cons (in the context) is

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misleading. مسافقا کی جیری کا Moreover, کا مقامل جیری کی مسافق حدواز نے سے مترادف سے سری کی کی طوالت محمد اللہ بر جائی گئی اکموازی کمیٹی کا محمد کا Urdu word کی دونوں سینیاں بادکہ also carrying



HEV C R C 191:12 ا) جو که گاژيول، 21/2/11/2/2/

Zic.

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