

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



DATE OF ORDER

15 September 2020



BENCH MEMBERS

Ms. Shaista Bano
Ms. Bushra Naz Malik

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

SCN ISSUANCE DATE:
20 August 2019



SECTOR/MARKET

Lubricating oil for automobiles
and off-highway engines



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.



NATURE & SECTION VIOLATION

Section 10 of the Act pursuant to
Deceptive Marketing Practices
violated

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?



PARTIES

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



Deceptive 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..."

CCP passes order in matter of alleged deceptive marketing claims
ISLAMABAD: The Competition Commission of Pakistan (CCP) has passed an order deciding a matter of the alleged deceptive advertising claims by M/s Hi-Tech Lubricants (Pvt) Limited. The CCP has held that the above-mentioned claims made by Hi-Tech for promoting its products fell under the category of puffery. "Puffery" is a term used to describe wildly exaggerated or vague claims about a product or service that the consumer 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. Moreover, the Bench accepted the respondents' argument that the Urdu word 'behtreen' also carrying the meaning of 'best' or 'superior' is a common and acceptable term used in advertising to describe a product or service. The Bench held that the above-mentioned claims made by Hi-Tech for promoting its products fell under the category of puffery.

CCP passes order in matter of alleged deceptive marketing claims
ISLAMABAD: The Competition Commission of Pakistan (CCP) has passed an order deciding a matter of the alleged deceptive advertising claims by M/s Hi-Tech Lubricants (Pvt) Limited for its products under the brand name "Zic." Chevron Pakistan Lubricants (Pvt) Limited complained to the CCP that certain marketing and advertising claims made by M/s Hi-Tech Lubricants Limited and M/s. Hi-Tech Blending (Pvt) Limited for their lubricant products under the brand name, Zic, were deceptive and in violation of Section 10 of the Competition Act, 2007. 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 held that the above-mentioned claims made by Hi-Tech for promoting its products fell under the category of puffery. "Puffery" is a term used to describe wildly exaggerated or vague claims about a product or service that the consumer 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. Moreover, the Bench accepted the respondents' argument that the Urdu word 'behtreen' also carrying the meaning of 'best' or 'superior' is a common and acceptable term used in advertising to describe a product or service. The Bench held that the above-mentioned claims made by Hi-Tech for promoting its products fell under the category of puffery.

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