



Competition Commission of Pakistan

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## ORDER

Show-Cause Notice issued to

# M/s. Medialogic, PBA and BAC on complaint filed by Bol Media Network



## BACKGROUND



- Complainants filed a formal complaint against Respondents for not granting its rating services through the following arrangements:
- The arrangements were apparently camouflaged in 3 agreements.

### AGREEMENT NO. 1

Dated: 15 July 2018



was executed between Medialogic and PBA, wherein Medialogic was restricted from providing services to any other broadcaster other than PBA.

### AGREEMENT NO. 2

Dated: November 2017



It was a Joint Venture Agreement between PBA and Pakistan Advertiser Society (PAS) to create BAC. According to this agreement, the broadcasters, who were not PBA members, were excluded from being members of BAC.

### AGREEMENT NO. 3

Dated: 5 January 2018



It was executed between BAC and Medialogic, under which BAC shall endorse the services provided by Medialogic being the official industry currency. Moreover, the approval of BAC would be necessary in case Medialogic grants rating to any other customer.



## DATE OF ORDER

1 December 2021



## BENCH MEMBERS

Ms. Rahat Kaunain Hassan  
Ms. Bushra Naz Malik



## SECTOR/MARKET

Television Audience Measurement (TAM) Data & Ratings services



## NATURE & SECTION VIOLATION

Prohibited Agreement in violation of Section 4 of the Act



## PARTIES

Complainant:  
1. Bol Media Network  
2. Labbaik (Pvt.) Ltd  
3. Bol Enterprises (Pvt.) Ltd

Respondent:  
1. Pakistan Broadcaster Association  
2. Broadcaster Advertiser Council  
3. Medialogic (Pvt.) Ltd

## FINDINGS OF ENQUIRY REPORT



1. Clauses 3.5.1, 3.5.3, 3.5.4 and 10.2 of **Agreement No. 1** have the object and effect of foreclosing the relevant and allied markets for potential competitors of PBA's members and were, prima facie, in violation of Section 4 of the Act.

2. The dissimilar conditions laid in Agreement No. 1 to obtain ratings by Medialogic put non-PBA members at a competitive disadvantage, thus, the conduct of PBA was also, prima facie, a violation of Section 4(1), read with sub-section (2)(f) of the Act.

3. The **Agreement No. 2** designed to restrict entry of and exclude non-PBA members from becoming members of BAC, prima facie, in violation of Section 4 read with sub-section (2)(a) of the Act.

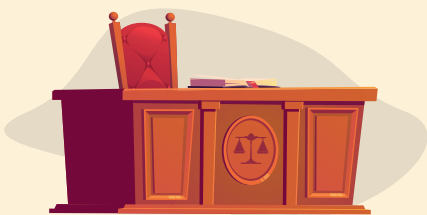
4. Clauses 1(f), 2(f) and 3(b) of **Agreement No. 3** prima facie amounted to restrictive trading conditions in violation of Section 4(1), read with sub-section (2)(a) of the Act.

*Taking into account the Enquiry Committee's findings and recommendations, the Commission issued show cause notices to BAC, PBA and Medialogic and held hearings in the matter.*

**SCN ISSUANCE DATE:**  
1 February 2019

**5.** By denying ratings to the Complainant, which is on air and has an audience, in effect means that PBA has divided or shared the market for TV advertisement air time between its member undertakings which, prima facie, is a violation of Section 4(1), read with Sub-section (2)(b) of the Act.

**6.** In light of the findings, the Enquiry Committee recommended the Commission to consider initiating proceedings against PBA, BAC and Medialogic under Section 30 of the Act.



### ISSUES FRAMED BY THE BENCH

- ⇒ Whether the agreements/arrangements between Medialogic, PBA and BAC are in violation of Section 4 of the Act?
- ⇒ Whether the Commission has the jurisdiction to take cognizance of this matter, pursuant to the orders passed by the Supreme Court of Pakistan?



### FINDINGS OF THE BENCH

- ⇒ The Bench concluded that the three agreements involved the business interests of broadcasters, advertisers and rating companies, which are all interconnected markets.
- ⇒ It was observed that Medialogic had been issuing ratings to Complainant No. 1 prior to the signing of Agreements 1 and 3 and stopped providing the said services after signing the same. The Complainants were also denied membership of PBA, which was considered to be discriminatory treatment. BAC had also delayed the provision of its approval to the Complainant.
- ⇒ Thus, all three agreements/arrangements between the Respondents had the object and effect of foreclosing the market and creating barriers to entry for non-PBA members and new market entrants in violation of Section 4 of the Act.

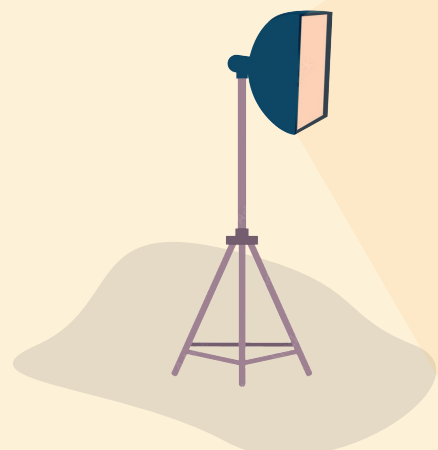
⇒ **In light of the facts on record and evidence available, the Bench therefore held:**

**1.** By denying ratings to non-PBA and non-BAC members, including the Complainants, PBA had divided or shared the market for TV advertisement airtime between its members, which was a violation of Section 4(1), read with Sub-section 4(2)(b) of the Act.

**2.** Clause 3.5 of Agreement 1 applies dissimilar conditions on otherwise equivalent transactions on non-PBA members, putting them at a competitive disadvantage in violation of Section 4(1), read with sub-section (2)(f) of the Act.

**3.** Agreement 2 was designed to restrict entry of and exclude non-PBA members from BAC in violation of Section 4 read with sub-section (2)(a) of the Act.

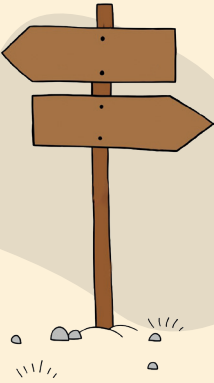
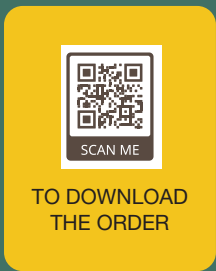
**4.** Clauses 1(f), 2(f) and 3(b) of Agreement 3 also amounted to a decision by BAC to impose restrictive trading conditions, which was a violation of Section 4 (1), read with sub-section (2)(a) of the Act.





## PENALTY IMPOSED

The Bench observed that the Supreme Court in its Order in the case of CR.O.P 108/2018 in Human Rights Case No. 34069/2018 had made the agreements obsolete and directed PEMRA to inter alia make rules/regulate the provision of TAM ratings and issue licenses to rating companies as per its mandate and the applicable laws in this regard. Thus, the **Bench decided not to impose any penalties on the Respondents** as it observed that the grievances of the Complainants had been addressed through the said Supreme Court Order.



## DIRECTIONS

- ⇒ The Commission issued directions of a prohibitory nature to the Respondents under Section 31(b) of the Act by warning them from engaging in any such activities in the future and, if so, the Commission would be inclined to take strict action against such entities. The Respondents were thereby directed to file commitments that they shall not repeat a violation of such nature and shall act in accordance with law.
- ⇒ PBA was also directed to confirm the status of BAC and to provide details in respect thereof, as BAC was an entity established as a result of a joint venture between PBA and PAS.

## NEWS COVERAGE

