

ORDER

In the Matter of Show Cause Notice issued to M/s. Qasim Iron Works on Complaint filed by M/s. Dadex Eternit Ltd .



Competition Commission of Pakistan

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CONCERNS AND COMPLAINT



- ⇒ Complainant alleged that the Respondent has been circulating certain false and misleading videos through its official website, Facebook page, YouTube, and WhatsApp against the Complainant.
- ⇒ It was claimed in these videos that the Respondent's product (i.e. fiber/corrugated Cement Sheets branded as 'Dura Sheet') is superior to that of the Complainant's product branded as 'Dadex' in terms of quality, efficacy, and fitness.
- ⇒ No evidence was provided to substantiate the claims made in the videos.



DATE OF ORDER

13 September 2021



BENCH MEMBERS

Ms. Shaista Bano Gilani
Ms. Bushra Naz Malik

FINDINGS OF ENQUIRY REPORT



- ⇒ The Enquiry Report concluded that the Respondent, through its advertisement campaign was, prima facie, disseminating false information to the consumers.
- ⇒ No reasonable basis related to the quality of the product was provided by the Respondent.
- ⇒ The conduct of the Respondent, prima facie, is capable of harming the business interest of the Complainant.
- ⇒ Based on the findings, the Enquiry Committee recommended initiation of proceedings under Section 30 of the Act against the Respondent.



SECTOR/MARKET

Fiber Cement Sheets Manufacturers



NATURE & SECTION VIOLATION

Deceptive Marketing Practices in violation of **Section 10** of the Act



PARTIES

Complainant:
1. Dadex Eternit Limited

Respondent:
1. Qasim Iron Works

In light of the findings and recommendation of the Enquiry Committee, the Commission issued a show cause notice to the Respondent in accordance with the law.

SCN ISSUANCE DATE:
28 October 2022

ISSUES FRAMED BY THE BENCH

- ⇒ Keeping in view the oral and written submissions made by the parties, the material/evidence placed on the record and the applicable law in the matter, the following issue was framed for the purpose of deliberation and determination:

Whether the Respondent has resorted to deceptive marketing practices in violation of Section 10 of the Act?



FINDINGS OF THE BENCH



- ⇒ After perusing the material on record as well as the publicly available specifications of the corrugated cement sheets marketed by the parties, it was concluded that the overall net general impression generated by the videos in question was that the Respondent's product was superior to that of the Complainant's product and is a deceptive marketing practice.
- ⇒ However, the Bench found nothing on the record to conclusively establish that the Respondent itself had produced or disseminated the impugned videos. Rather, it was found that another company, Shayan Qasim Iron (SQI), who was a distributor of the Respondent, had uploaded and shared the deceptive videos.
- ⇒ It was also observed that the impugned material was removed from the websites and social media page upon intervention of the Respondent. Moreover, the creation of the subject Whatsapp groups through which the deceptive material was circulating could also not be linked to the Respondent.
- ⇒ Nevertheless, the Bench observed that the Respondent had a duty to remain vigilant regarding the activities of its distributors distributing its own products and that the Respondent was clearly negligent on this account.



PENALTY IMPOSED

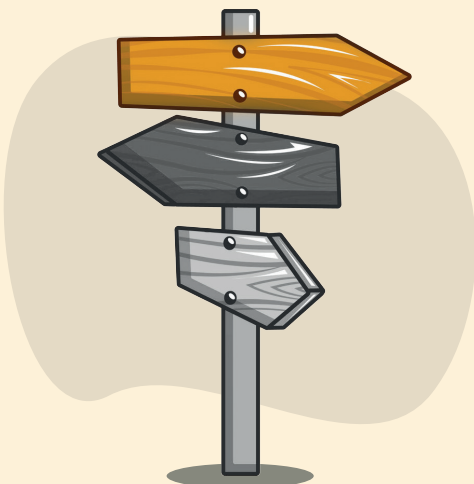
Keeping in view the compliance-oriented conduct of the Respondent, the Bench was inclined to take a lenient view in the instant matter and not impose any penalty on the Respondent.



TO DOWNLOAD
THE ORDER

CONCLUSION AND DIRECTIONS

The Commission inclined to pass the following directions to the Respondent.



- ⇒ The Respondent shall, within 7 days from the passing of the order, publish/upload on the home page of its website a notice, whereby it shall retract all false and misleading claims concerning the Complainant's product.
- ⇒ The notice shall be published prominently for a period for not less than 90 days from the date of its publication.
- ⇒ The Respondent shall submit a compliance report to the Registrar of the Commission within 7 days of publishing the same.
- ⇒ The Respondent shall refrain from producing and/or disseminating any false information in the future.
- ⇒ The Respondent shall obtain written commitments from all distributors and agents stating that they will not produce and/or disseminate any misleading information in relation to the Complainant's products.
- ⇒ The Respondent shall submit to the Registrar of the Commission a list of all its distributors and agents along with their written commitments within 45 days of the passing of the order.
- ⇒ The Respondent shall ensure proper training and establish procedures for its distributors and agents.