

INFORGRAPHICS

In the Matter of show cause notice issued to **Al Hafeez Oil Industries, Muslim Coporation on complaint filed by Nawaba Oil Industries.**









Competition Commission
of Pakistan

www.cc.gov.pk

CONCERNS AND COMPLAINT

- According to the complaint, both Al-Hafeez Oil Mills and Muslim Corporation had copied the registered trademark and copyrighted packaging/trade dress of the Complainant's cattle feed products, which was alleged to be a contravention of Section 10 of the Competition Act.
- Both Respondents had developed their own trademarks, which were alleged to be identical, confusingly and deceptively similar to the Complainant's trade mark. Respondent No. 1 also had a similar company name, i.e., "AH Nawab Oil Industries" and "nawab" in its logo.
- The likelihood of confusion and deception was compounded by the fact that the literacy rate of an ordinary consumer is very low and people would not be able to distinguish between identical/similar trademarks.

Examples of the similarity between the trademarks:

Complainant's Logo	Respondent's Logos	
	Respondent 1	Respondent 2
		
Complainant's Packaging	Respondent's Packaging	
	Respondent 1	Respondent 2
		

FINDINGS OF ENQUIRY REPORT

- Based on the facts, the enquiry committee concluded that both Respondents were involved in the fraudulent use of the Complainant's trademark, product labelling, and packaging/trade dress, which amounted to, *prima facie*, a violation of Section 10(1) of the Act, read with sub-Sections 10(2) (a) and 10(2) (d) of the Act.



DATE OF ORDER

16 August 2021



BENCH MEMBERS

Rahat Kaunain Hassan
Shaista Bano



SECTOR/MARKET

Cattle Feed Producers



NATURE AND SECTION VIOLATION

Deceptive Marketing Practices, Section 10 of the Competition Act



PARTIES

Complainant

Nawaba Oil Industries

Respondent No.1

Al-Hafeez Oil Mills

Respondent No.2

Muslim Cooperation

SHOW CAUSE NOTICE



- After taking into account the recommendations and findings of the enquiry report, the Commission initiated proceedings against Al-Hafeez Oil and Muslim Corporation under Section 30 of the Act and issued show cause notices to both undertakings on 21 August 2020.



ISSUES FRAMED BY THE BENCH

As per findings of the Enquiry Report along with the submissions made before the Bench, the following issue was framed by the Bench:

- Whether Respondent No. 2 (Muslim Corporation) is involved in fraudulent use of the Complainant's trademark, product labelling and packaging/trade dress, which amounts to, prima facie, violation of Section 10(1) of the Act, read with sub-sections 10(2) (a) and 10(2)(d) of the Act.

FINDINGS OF THE BENCH

- Both the Complainant and Respondent No. 1 (Al-Hafeez Oil) had voluntarily demonstrated their willingness to enter into a consent order and settle the matter. The Bench allowed the same as the Commission has always been inclined towards adopting a compliance oriented approach for the purpose of Section 10 cases. Al-Hafeez, therefore, filed an undertaking that inter alia it would stop using the term 'nawab' and dispose of all impugned marketing material no later than 2 weeks from the date of the Order.
- With regard to Respondent No. 2/Muslim Corporation, no undertaking was submitted and it was found that Muslim Corporation's packaging was similar to that of the Complainant and that consumers were clearly susceptible to being confused by such deceptive marketing practices.

PENALTY



- Based on the written and oral submissions, the Commission held the conduct of Respondent No.2 (Muslim Corporation) a violation of Section 10(1) of the Act read with Section 10(2) (a) and (d).
- **A penalty of PKR Two Million was imposed.**



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THE ORDER

DIRECTIONS



- Muslim Corporation was further directed to cease and desist from using the trademark of the Complainant, or use any packaging material similar to that of the Complainant or any other undertaking, in future, and to create a mark, packaging, marketing material etc. that was also distinct from Respondent No. 1 within 30 days of the Order.