

COMPETITION COMMISSION OF PAKISTAN

ENQUIRY REPORT

(Under Section 37(1) of the Competition Act, 2010)

**IN THE MATTER OF ALLEGED VIOLATION OF COMPETITION ACT, 2010 BY
MILLAT TRACTORS LTD & AL-GHAZI TRACTORS LTD**

Muhammad Shamaoun | Maliha Quddus | Sara Jamali

Dated: September 13, 2021

BACKGROUND & FACTS

1. This report has been prepared in pursuance of the enquiry authorized by the Competition Commission of Pakistan (the ‘Commission’) under section 37(1) of the Competition Act, 2010 (the ‘Act’) on April 21, 2021 against tractor manufacturers to ascertain prima facie violations of Section 3 and/or Section 4 of the Act.
2. The Commission received a number of concerns through Pakistan Citizen Portal about drastic increase in the prices of tractors by the tractor manufacturing companies at different points in time despite subsidy relief given by the government on sales tax and a great extent of localization in the tractors industry. The complainants also alleged about the substandard build quality of the tractors resulting in frequent breakdown. The aforementioned complaints are placed at **Annex-A1**.
3. In light of the above concerns, information with respect to prices, market shares, financial statements for the last two years and comments on the aforesaid complaints were sought from Millat Tractors Ltd (the ‘MTL’) and Al-Ghazi Tractors Ltd (‘AGTL’) who collectively hold approximately 99% of the total market share in the tractors industry, (hereinafter referred as ‘tractor manufacturers’) vide letters dated August 11, 2020 and October 06, 2020 respectively. Analysis of the requisite information revealed that the tractor manufacturers on most of the occasions have increased their prices in a sequential manner during a smaller time frame such that MTL had increased prices in October 2018 (1 – 5%), July 2019 (7 – 13%), March 2020 (2 – 3%) and July 2020 (5 – 7%). Likewise, AGTL had also increased its price in October-November 2018 (3 – 5%), July- August 2019 (5 – 10%), March 2020 (1 – 4%) and July 2020 (5 – 7%) of its various models.
4. The tractor manufacturers cited the following reasons for price increase in their submissions dated August 21, 2020 and November 04, 2020:
 - i. Increase in the price of steel by 13.8%, 5.8% and 9.6% in the years 2018, 2019 and 2020 respectively and an overall increase of 32% in the last two years;
 - ii. Devaluation of PKR against USD by 25.7%, 11.5% and 8.6% in the years 2018, 2019 and 2020 affecting the cost of raw material;

- iii. Increase in the price of gas by 11% and 70% in the years 2018 and 2019 impacting the cost of utilities;
 - iv. Mounting inflation recorded at 5.4%, 12.6% and 8.9% in the years 2018, 2019 and 2020 and the overall inflation has risen by 27.83% over the last two years; and
 - v. Increase in import duties on certain raw materials.
5. The tractor manufacturers attributed the increasing cost of production to the devaluation of PKR against USD mainly due to increased cost of inputs. To assess the exchange rate impact, information pertaining to local and imported procurement of major components of tractors was sought from the tractor manufacturers vide letters dated January 01, 2021. The analysis of the said information revealed that in terms of value the local procurement accounted for more than 60 percent of the total procurement for major components of tractors in the last three years for MTL. Likewise, AGTL submitted information pertaining to the breakup of cost structure for local and imported parts which accounted 92% and 8% in terms of quantity and 30% and 70% in terms of value respectively. As per the annual reports of the tractors manufacturers, the magnitude of localization for MTL and AGTL stood at 92%¹.

(Correspondence before the initiation of enquiry is placed at **Annex-A2**)

6. Based on the foregoing, the Commission in its meeting held on April 21, 2021 authorized an enquiry under Section 37(1) of the Act to ascertain whether there has been any prima facie violation of Section 3 and/or Section 4 of the Act on part of the tractor manufacturers and submit a report in the matter. The following officers were appointed to the enquiry committee:
 - i. Muhammad Shamaoun, Director (C&TA)
 - ii. Maliha Quddus , Joint Director (C&TA)
 - iii. Sara Jamali, Assistant Director (C&TA)(Hereinafter, referred as ‘Enquiry Committee)
7. Subsequent to the initiation of the enquiry, the enquiry committee contacted some individuals who had raised concerns regarding alleged malpractices in the tractors industry. The enquiry committee was informed that before ploughing and after harvesting season, the demand for tractors gets higher and in order to make abnormal profits through ‘Own/On money’, artificial

¹ MTL Annual Report 2020 Page 21, AGTL Annual Report 2020 Page 35

shortage is created by the tractors manufacturers and the average delivery time is 03 months despite 100% advance paid to them. The malpractice of 'Own/On money' for immediate delivery was also confirmed telephonically from randomly selected dealers of both the tractor manufacturers located in Rawalpindi. The dealers also mentioned that the tractors would be transferred in the name of the buyer after three months. This indicates that the dealers are deliberately limiting the supply of the tractors in order to make unfair profits by compelling the buyers to pay 'Own/On money' ranging between Rs. 80,000 to Rs. 300,000 on different models.

8. In light of the aforementioned concerns, following information was sought from the tractor manufacturers (in soft and hard form) vide letters dated May 28, 2021:
 - a. Copies of official price lists issued from January 2018 till date;
 - b. Model wise production data from January 2018 till date;
 - c. Year-wise annual installed and utilized capacity from January 2018 till date;
 - d. Model wise sales data segregated into local and exports, dealer wise, area wise clearly mentioning the delivery time of each model as per the format placed from January 2018 till date;
 - e. Copies of agreements with dealers;
 - f. List of priority deliveries to customers from January 2018 till date;
 - g. Procedure of tractor booking i.e. booking order to the final delivery. It should also include mode of payment at each stage (partial/full/advance/financing);
 - h. Costing of top three models in terms of highest number of sales made mentioning clearly (i) type of local parts and their value (ii) type of imported parts and their value; and
 - i. Date wise pending orders and their reasons;

9. Later on, additional information such as copy of provisional booking orders, copies of agreements with vendors, trading companies and certain additions in sales data was requested vide letter dated June 17, 2021 and emails dated July 09, 2021 and July 14, 2021. Similar information was also requested from AGTL vide emails dated July 19, 2021 and August 23, 2021. MTL provided information in soft form vide emails dated June 21, 2021 and July 30, 2021. AGTL provided the requisite information on July 08, 2021, August 03, 2021 and August 24, 2021. However, AGTL has not provided the consolidated sales data as per the additional requirements.

(Abovementioned correspondence is attached as **Annex-A3**)

ENTER AND SEARCH CONDUCTED BY THE AUTHORIZED OFFICERS OF THE COMMISSION UNDER SECTION 34 OF THE COMPETITION ACT, 2010

10. During the course of enquiry, production and price data was sought from MTL and AGTL for the period: January 2018 to May 2021. The data shows that in the year 2021 both the tractor manufacturers increased their prices in a sequential manner during a smaller time frame and the quantum of percentage increase on majority of the occasions was approximately similar in case of comparable products i.e. HP has a very small differential and the prices remain more or less in the same range. The above mentioned sequential price pattern was also observed in the years 2018 – 2020.
11. Given the extent of localization in the tractors industry i.e. more than 90% and the absence of any technological advancements made by the tractor manufacturers, a price increase move made by the market leader (MTL) followed by the second biggest market player (AGTL) indicated the likelihood of collusion in the tractors industry. A news item dated June 19, 2021 published in the Dawn News reported *“Tractor assemblers have increased prices by Rs.92,000-196,000 in the last one year despite high level of localisation.”* The relevant news item is placed at **Annex-A4**.
12. Given that both companies have excess capacities whereas considerable demand for tractors exists in Pakistan indicates that the shortage of tractors and long delivery schedules are created deliberately so that the companies and dealers can potentially collude in order to make unfair profits by compelling the buyers to pay ‘Own/On money’ ranging between Rs. 80,000 to Rs. 300,000 on different models.
13. Analysis of Provisional Booking Orders (PBO’s) of MTL and AGTL revealed that there are many similar clauses in terms of price, specifications, delivery schedule, and dispute settlement. These clauses appear to be unreasonable and exploitative in terms of the Act.
14. From the analysis of MTL’s dealership agreement, the practice of ‘Resale Price Maintenance’ (RPM) appeared to be in place by MTL. Further supportive evidence in this regard particularly communication between MTL and its dealers needed to be gathered.

15. In view of the above, there appeared i) a possible identical pricing pattern, (ii) price escalations despite localization, (iii) existence of excess capacity despite the presence of considerable demand for tractors in Pakistan pointed towards shortage of tractors and long delivery schedules created deliberately, (iv) identical clauses of PBO and (v) indication of RPM. These concerns indicated a likelihood of contravention of Section 3 and/or 4 of the Act. Due to the secret nature of the possible collusive activity, likelihood of obtaining direct evidence is difficult there was a chance that the evidence may be destroyed/deleted by parties involved, if requisitioned. Therefore, the Commission considered it is necessary to exercise powers under Section 34 of the Act to gather evidence to enforce Section 3 and/or 4 of the Act.
16. In view of the above, the enquiry committee submitted a working paper to the Commission to conduct ‘enter and search’ of the premises occupied by MTL Lahore and AGTL Karachi under Section 34 of the Act to obtain substantial evidence on the aforementioned concerns.
17. Based on the foregoing, the Commission vide its order dated August 31, 2021 authorized two teams of officers to conduct the aforementioned ‘enter and search’ of the premises of MTL and AGTL. On September 02, 2021 the teams of duly authorized officers of the Commission conducted inspection on the following premises:
- a. Millat Tractors Ltd, Head Office Millat Tractors Limited 9-km, Sheikhpura Road, Shahdara Lahore.
 - b. Al-Ghazi Tractors Ltd, Tractor House, Plot No.102-B, 16th East Street, DHA Phase I, Off. Korangi Road Karachi.
- (Collectively referred as ‘**the Premises**’)
18. The authorized teams impounded all the pertinent material including inter alia: handheld computer devices, documents/files and other computer stored data. Copies of the respective authorization and inventory lists are attached as **Annex-A5**.
19. In order to access information stored on impounded handheld computer devices, the Commission sought assistance from the Federal Investigation Agency (“FIA”), under provisions of Section 53 of the Act, for digital forensic analysis to retrieve the digital evidences as per the requirement of the Enquiry Committee. Scope of the digital forensic analysis was to analyse evidentiary items relating to: phone calls made and received, SMS messages, messages/conversations including media on app based communication, email accounts, and

retrieval of information with regard to key words. Letter to FIA is placed at (**Annex-A6**). FIA report and relevant evidence is attached as (**Annex-A7**).

20. The information gathered from the tractor manufacturers and the impounded evidence during the aforementioned ‘enter and search’ form an integral part of this enquiry report.

OVERVIEW OF THE TRACTORS INDUSTRY

21. Tractor lies in the category of automobile which accounts for seven percent of Large Scale Manufacturing (LSM) sector in Pakistan. The overall sales of automobile sector has witnessed an increase in the FY2020-21. Likewise, tractor sales have also experienced an increase of approximately 55% to 50,920 units in FY2020-21. The number of operational tractors is around 612,000 in Pakistan². As per the Automotive Development Policy 2016-21, the availability of power per hectare in Pakistan is approximately 0.90 HP against the required power of 1.4 HP per hectare, whereas India’s availability is 2.31 HP per hectare.³ The Table-1 below presents the trend of sales in automobile sector of Pakistan in the last five years:

	FY16-17	FY17-18	FY18-19	FY19-20	FY20-21
Cars	185,781	216,786	207,630	96,455	151,182
Trucks	7,499	9,331	5,828	3,088	3,695
Buses	1,130	762	935	559	652
Jeeps	3,534	12,870	7,654	3,459	11,306
Pick Ups	23,804	29,136	25,362	12,048	18,909
Tractors	54,992	70,887	50,405	32,727	50,920
Motorcycles/ 3Wheelers	1,630,735	1,931,340	1,781,959	1,370,005	1,903,932

Source: PAMA

22. The average annual sales for tractors in Pakistan has been hovering around 50,000 units in the last five years. Only a fraction of 4% demand is fulfilled through imports and the remainder is fulfilled by domestic production⁴. Pakistan has an annual installed capacity of manufacturing approximately 100,000 tractors⁵ and the highest ever sales recorded in Pakistan stood at 70,887 units in the FY 2017-18. The yearly production on average has remained around 51,000 tractors

² Economic Survey of Pakistan 2020-21

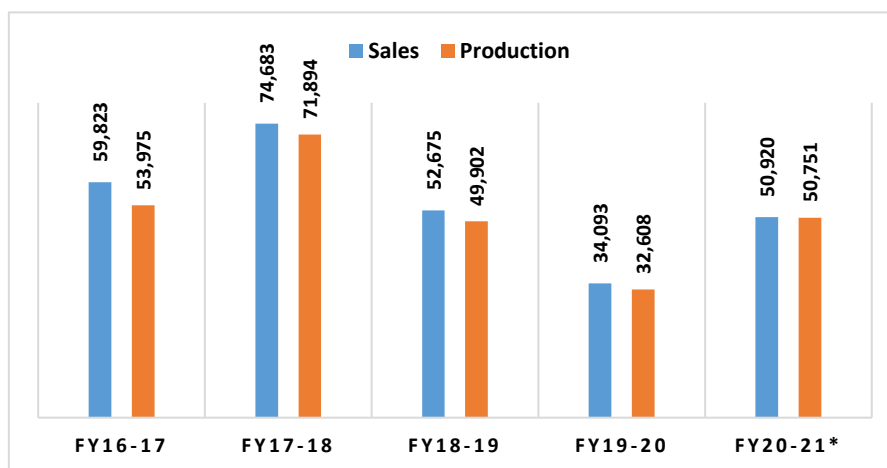
³ Ministry of Finance. (2021). *Pakistan Economic Survey 2020-21*. Chapter 2: Agriculture.

⁴ Data pertains to FY2019-20

⁵ Ministry of Finance. (2021). *Pakistan Economic Survey 2020-21*. Chapter 3: Manufacturing and Mining. Pg. 59

in the last five years. MTL and AGTL have achieved 92 percent localization each⁶. Figure below presents the tractor production and sales (including imports given in later paras) in Pakistan for the last five years:

Figure 1: Total Production and Sales for tractors in Pakistan (number in units)



Source: PAMA, PBS, *FY 2020-21 (excluding imports)

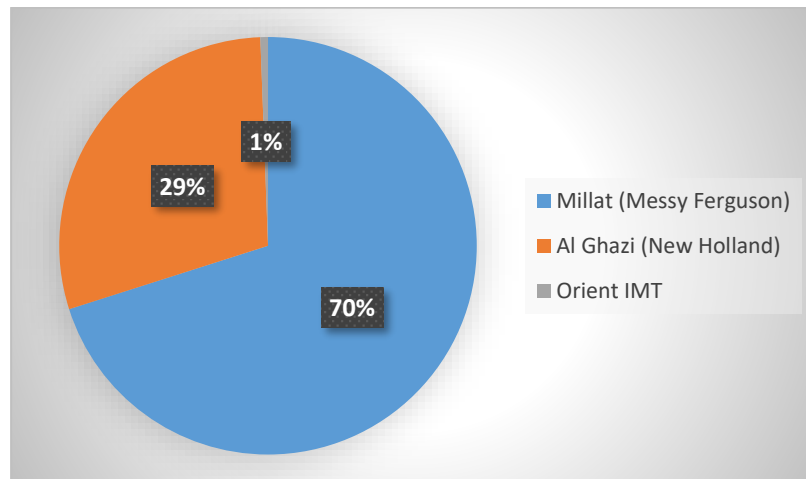
23. During the review period, the gross profit of the companies remained in the range of 18 % to 24%, whereas return on capital employed (ROCE) remained in the range of 59% to 84% and are given in the table below:

Profitability Ratios	MTL (FY ended June 30)			AGTL (FY ended June 30)		
	2020	2019	2018	2020	2019	2018
Gross Profit	18.51%	19.09%	21.90%	23.21%	18.19%	24.08%
Profit before tax	12.94%	16.32%	20.20%	16.15%	9.64%	19.28%
Net profit after tax	9.37%	11.68%	13.85%	11.31%	6.99%	12.66%
Return on Capital Employed	84.44%	107.52%	165.35%	58.99%	108.18%	179.09%

24. Tractor manufacturing in Pakistan is concentrated in two major companies namely MTL and AGTL. Market shares of these manufacturers are given below:

⁶ Annual Reports of MTL and AGTL 2020

Figure 2: Market share of tractor manufacturers in Pakistan



Source: PAMA

25. As evident from the chart above, tractor industry in Pakistan appears to have an oligopolistic market structure. It is observed that MTL has a market share of 70% i.e. on the basis of total units sold (35,571 units sold during FY2020-21). MTL is engaged in the manufacturing and marketing of Massey Ferguson (MF) tractors having horse power (HP) of 50 - 85 under the licensing agreement with AGCO Ltd UK⁷. As per the submissions made by MTL, its annual production capacity remained 40,000 in the last three years.
26. AGTL is the second largest player in the tractors industry holding a market share of 29% on account of sales of 14,881 units made in the FY2020-21. AGTL is engaged in the manufacturing of New Holland (Fiat) tractors in technical collaboration with CNHI - Case New Holland having horse power (HP) of 55 – 85. AGTL has the capacity to produce 30,000 tractors annually⁸.
27. Orient Automotive Industries Private Ltd the producer of Bull Power tractors is the third and smallest market player in the tractors industry having a market share of only 1% with sales accounting only 299 units during FY 2020-21. The company produces tractors having HP in range of 50-85⁹. The company is importing CKD items in Karachi and assembling tractors at their plant¹⁰. The company has the capacity to manufacture 27,000 tractors annually¹¹.

⁷ MTL Annual Report 2020

⁸ AGTL Annual Report 2020

⁹ <http://orienttractors.com/company-profile/> -

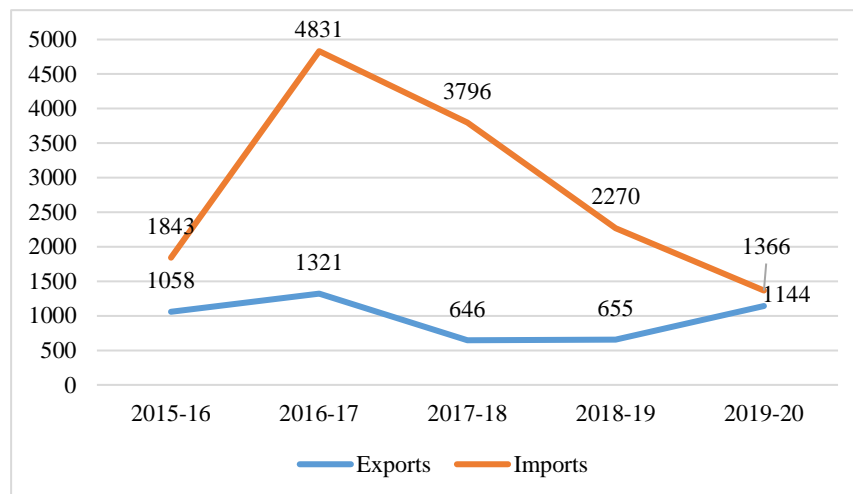
¹⁰ <https://tractors.com.pk/top-5-tractor-brands-pakistan/>

¹¹ <http://orienttractors.com/our-plant/>

28. There are some other small market players such as Belarus Tractors, Euro Ford Tractors, John Deere, CASE Tractors, Claas Tractors, Chinese made Dewan Foton, Rahi etc as well. Since these are not members of PAMA, therefore, their sales data is not publically available.

Export and Import of Tractors

29. Import of tractors is liable to customs duty of 16%, sales tax of 17%, additional sales tax of 3%, income tax of 6% and additional customs duty of 1%¹². According to Pakistan Bureau of Statistics, Pakistan exported 1,144 tractors having value of Rs. 1.2 billion during FY 2019-20¹³. Main export markets of Pakistani tractors are Botswana, Afghanistan, Kenya and other African countries. Furthermore, Pakistan is also an importer of tractors due to few market players such as Fecto Belarus Tractors Ltd who import CBU and CKD units mainly from Belarus. Even MTL offers a CBU unit of 100 HP range in Pakistan. In the FY 2019-20 Pakistan imported 1,366 tractors. A small quantity of tractors are imported from China and Turkey. A graphical representation of the imports and exports of tractors in Pakistan is illustrated below:



Source: PBS

Supply chain of tractors

30. MTL has a network of 78 dealers in all four provinces of Pakistan and AJK. Tractors are sold with warranty period of one year or 1200 hours running. Spare parts claim is accepted within the warranty duration. For after sales services they have established authorized workshops in cities. Booking/Sales/purchase is done through dealerships with 100% advance and approximate

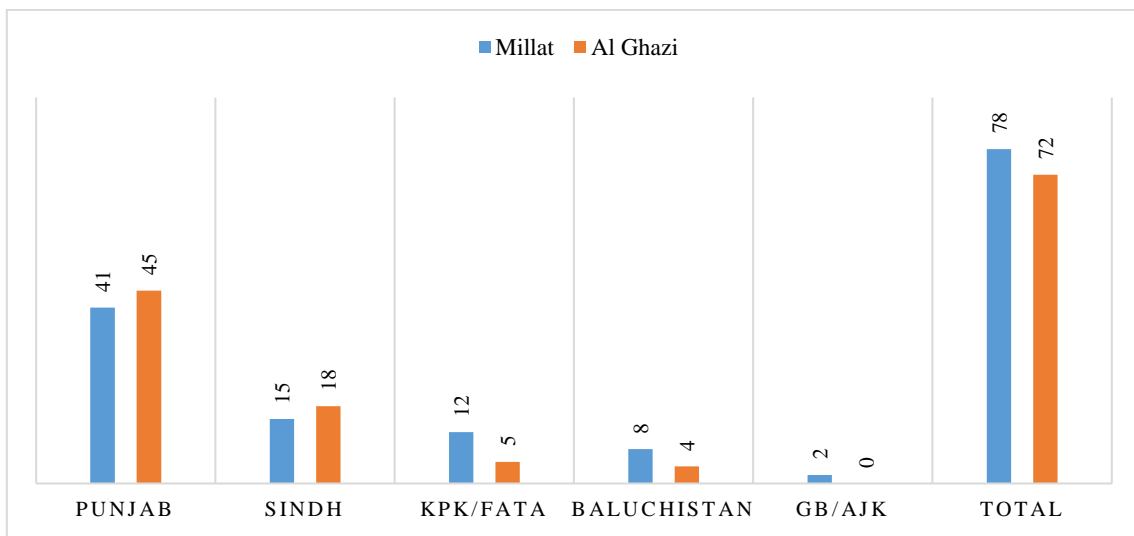
¹² <https://pakistancustoms.net/2018/01/customs-import-duty-on-agricultural-tractors-in-pakistan-agricultural-machinery.html>

¹³ PBS

delivery time is 2 to 3 months. In the case of government/ institutional tenders, the company directly takes part in tenders and sell directly to entities.

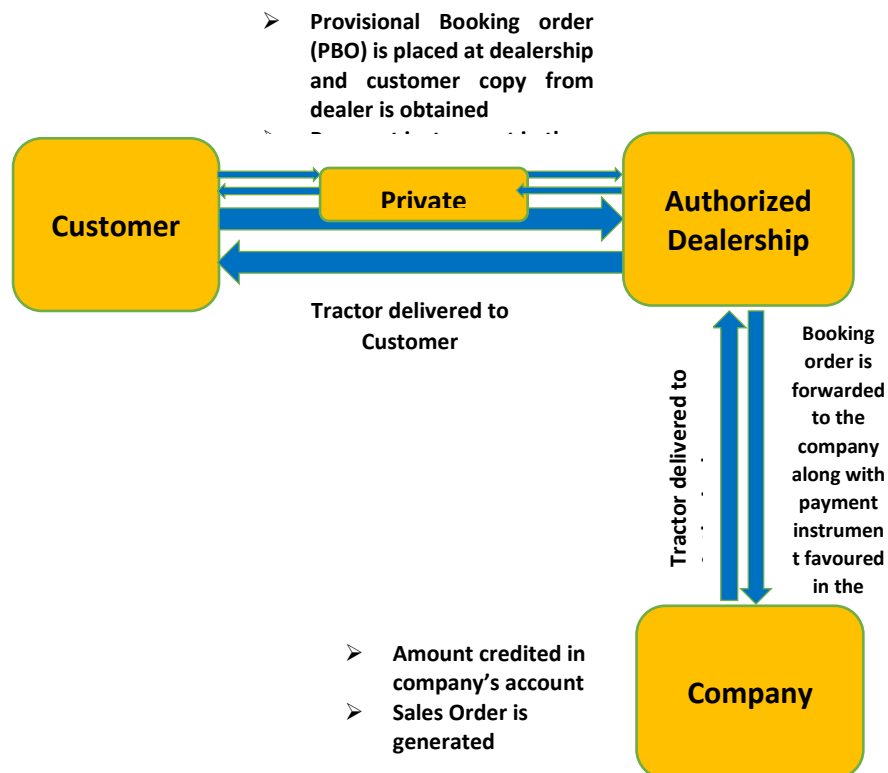
31. AGTL has 72 authorized dealers all across Pakistan. The company also exports tractors to Afghanistan, Saudi Arabia, UAE, Africa etc. Sales through private showroom is also carried out and they book a handsome amount of tractors through dealers. Dealers are categorized as 3S, 2S and 1S dealership for cash booking. Company provides a warranty duration of all parts except rubber and electric for one year or 1200 running hours.

Figure 3: Dealerships of companies across provinces



Source: Official websites of MTL and AGTL

32. The value chain of tractors is illustrated in the following diagram:



** Companies also sell directly i.e. government and institutional tenders.*

33. The global agricultural tractor market was valued at USD 60.31 billion in 2020 and is projected to register a Compound Annual Growth Rate (CAGR) of 4.4% over the forecast period (2021-2026)¹⁴. During COVID-19, the sector has seen a sharp dip in the tractor business, and the most affected business could be the dealership network due to the disruption of the supply chain. Due to travel restrictions, production of goods got delayed, as supply was interrupted, resulting in a sharp decrease in tractor sales during the pandemic.
34. China and India lead in the number of tractors sold across countries. China has around 60.0% of its farm activities mechanized. Beijing included agricultural machinery in its 'Made in China 2025' campaign in 2018. The program is expected to help the country produce most of its farm equipment domestically, which is expected to increase the sales of tractors in China.
35. The farm mechanization level in India was recorded at 40.0% - 45.0% in 2017. The penetration of farm equipment is slow, as almost 80.0% of small and marginal farmers own less than five hectares of land in the country. The agriculture sector in India has witnessed a substantial decline in the use of animal and human power as a large number of these are driven by fossil fuel-operated vehicles, such as tractors and diesel engines. This has resulted in a shift from the traditional agriculture process to a more mechanized one. Though the level of mechanization in India is lower than in other developing countries, like China and Brazil, it is certainly in a growing phase. In order to increase the mechanization level, the Indian government is promoting 'Balanced Farm Mechanization', by providing subsidies on various equipment and supporting bulk buying through front-end agencies, which is expected to strengthen the tractors market during the forecast period.
36. Pakistan being an agrarian country contributes 19.2% towards the national GDP¹⁵. It is evident from the information above that Pakistan is lagging behind in farm mechanization compared to other countries in the world. As per the Economic Survey of Pakistan 2019-20, the non-availability of quality tractors and other agricultural machinery at affordable prices to the farmer community was one of the constraints in achieving the desired mechanization.

¹⁴ <https://www.mordorintelligence.com/industry-reports/agricultural-tractor-market>

¹⁵ Economic Survey of Pakistan 2020-21

ISSUES

37. In view of the foregoing, the following issues are addressed in this enquiry report:

- I. The relevant market in terms of Section 2(1) (k) of the Act.
- II. Whether any tractor manufacturer holds a dominant position in the relevant market in terms of Section 2(1) (e) of the Act? If yes, whether the conduct of the dominant player is abusive in terms of Section 3 of the Act?
- III. Whether tractors manufacturers have indulged in anti-competitive activities in violation of Section 4 of the Act?

UNDERTAKING

38. Section 2(1)(q) of the Act defines an undertaking as:

“Any natural or legal person, governmental body including a regulatory authority, body corporate, partnership, association, trust or other entity in any way engaged, directly or indirectly, in the production, supply, distribution of goods or provision or control of services”.

39. Tractor manufacturing companies are registered under the laws of Pakistan and are engaged in manufacturing, supply, distribution and after sales of tractors and are therefore undertakings in terms of Section 2(1) (q) of the Act. Following is the list of such undertakings:

40. **Millat Tractors Ltd:** Millat Tractors Limited (MTL) is a public limited company and was incorporated in Pakistan in 1964 under the Companies Act, 1913 (now the Companies Act, 2017). The Company is principally engaged in assembling and manufacturing of agricultural tractors, implements, multi-application products and is therefore an undertaking in terms of Section 2(1)(q) of the Act.

41. **Al-Ghazi Tractors Ltd:** Al-Ghazi Tractors Ltd (AGTL) is a public limited company and was incorporated in Pakistan under the Companies Act, 1913 (now Companies Act, 2017) in June, 1983. The Company is principally engaged in the manufacture and sale of agricultural tractors, generators, implements, spare parts, providing irrigation solutions for agriculture and is therefore an undertaking in terms of Section 2(1)(q) of the Act.

RELEVANT MARKET

42. Section 2 (1) (k) of the Act defines the “Relevant Market” as:

“Relevant market means the market which shall be determined by the Commission with reference to a product market and a geographic market and a product market comprises of all those products or services which are regarded as interchangeable or substitutable by the consumers by reason of the products’ characteristics, prices and intended uses. A geographic market comprises the area in which the undertakings concerned are involved in the supply of products or services and in which the conditions of competition are sufficiently homogenous and which can be distinguished from neighboring geographic areas because, in particular, the conditions of the Competition are appreciably different in those areas;

43. In light of the above definition, relevant market consists of a relevant product market and a relevant geographic market.
44. Tractor is defined as a *“high-power, low speed traction vehicle and power unit mechanically similar to an automobile or truck but designed for use off the road. Tractors are used in agriculture, construction, road building, etc., in the form of bulldozers, scrapers, and diggers*¹⁶”.
45. In Pakistan tractors are primarily used for two purposes: (i) agriculture for ploughing and sowing; and (ii) haulage purposes (construction, transportation etc.). Domestic sales constitute approximately 98% of total sales whereas the remainder 2% are export sales during the period (Jan 18 - May 21)¹⁷. As earlier explained in the tractors industry overview, MTL & AGTL have a combined market share of approximately 99% in the domestic market. The tractor manufacturers are offering various multipurpose models for sale in the domestic market and the market can be segmented based on engine power (Horse Power “HP”) which may be divided into the following segments:
- i. 50 to 55 HP
 - ii. 60 to 65 HP
 - iii. 75 HP
 - iv. 85 HP

¹⁶ Britannica: <https://www.britannica.com/technology/tractor-vehicle>

¹⁷ Submissions of MTL and AGTL

46. However, it is noted that across the aforementioned segments, some tractors models are comparable to each other, while some are not. The underlying factors considered for substitution of the tractors are given below:

- i. In the same segment, price differential is minimal between same variants but it could vary due to additional features.
- ii. Product characteristics/specifications: In each range a basic tractor model is offered with standard specifications and variations/added features such as power steering, power windows, disc brake and 4WD.
- iii. As far as intended usage of the tractors is concerned, MF 240, MF 350 Plus, MF 260, MF 375 2WD, MF 385 2WD, MF 385 4WD are considered ideal for haulage and trolley purpose, whereas NH 480S, NH-480 Power Plus, NH Ghazi, NH 640, NH Dabung 85, NH 75*56 85 are considered ideal for agricultural purpose. MF 350 Plus, NH-480 Power Plus, NH 75*56 85 (4WD) and MF 385 (4WD) both have additional features of power steering and disk brakes. However in Pakistan tractors are generally multi-purpose including agricultural, haulage, construction and others depending on the consumer's choice. Therefore, intended usage of all tractors could be same and multipurpose depending upon consumer choice¹⁸.
- iv. The data impounded during enter and search of MTL premises also reflect that MF 240 (MTL) and MF350 plus (MTL) are comparable to NH 480S, (AGTL) and NH 480 Power Plus (AGTL) etc. as tabulated in later paras.

(Model wise tractors comparisons of MTL and AGTL are placed at **Annex-A8**).

(The impounded comparative document is placed at **Annex-A9**.)

47. **50 to 55 HP:** In this segment MTL and AGTL are offering the products MF 240 (MTL), MF350 plus (MTL), NH 480S, (AGTL), NH 480 Power Plus (AGTL) and NH 480 S-PW (AGTL) :

¹⁸ Data available on tractor.com.pk (online spare parts shop. Where consumer may buy and sell used tractors online) <https://tractors.com.pk/new-holland-v-massey-ferguson/> also shows that MF 240 (MTL) and MF350 plus (MTL) are comparable with NH 480S, (AGTL) and NH 480 Power Plus (AGTL) respectively.

Model #	Tractor Manufacturer	HP	Price in Rupee on July 29, 21	Units sold Jan 18 - May 21	% of Total Units Sold
MF240	MTL	50	1,085,700	29,751	56%
MF 350 Plus	MTL	50	1,130,000	42	
NH 480S	AGTL	55	1,088,850	15,691	44%
NH-480 Power Plus	AGTL	55	1,088,500	5,186	
NH-480 S-PW	AGTL	55	1,142,925	2,325	
Total				52,995	

48. **60 to 65 HP:** In this segment MTL and AGTL are offering the products MF 260 (MTL) and NH-Ghazi (AGTL).

Model #	Tractor Manufacturer	HP	Price in Rupee on July 29, 21	Units sold Jan 18 - May 21	% of Total Units Sold
MF260	MTL	60	1,244,250	27,453	54%
NH-Ghazi	AGTL	65	1,244,250	22,879	46%
Total				50,332	

49. **75 HP:** In this segment MTL and AGTL are offering products MF 375-2WD (MTL), MF 375-4WD (MTL) and NH 640 (AGTL).

Model #	Tractor Manufacturer	HP	Price in Rupee on July 29, 21	Units sold Jan 18 - May 21	% of Total sold
MF 375-2WD	MTL	75	1,617,000	7,575	45%
MF 375-4WD	MTL	75	2,087,400	19	
NH-640	AGTL	75	1,599,150	9,388	55%
Total				16,982	

50. **85 HP:** In this segment MTL and AGTL are offering the products MF 385-2WD (MTL), MF 385 (4WD) (MTL), NH Dabung 85, (AGTL) and NH-70*56 4WD (AGTL).

Model #	Tractor Manufacturer	HP	Price in Rupee on July 29, 21	Units sold Jan 18 - May 21	% of Total Sold
MF 385-2WD	MTL	85	1,690,500	36,566	96%
MF 385 (4WD)	MTL	85	2,226,000	1,410	
NH Dabung 85	AGTL	85	1,659,000	1,416	4%
NH-70*56 4WD	AGTL	85	2,189,250	85	
Total		-		39,477	

51. Based on the foregoing analysis it appears that the relevant market broadly comprise of tractors which can be further divided into the following segments:

- i. Segment 1: HP 50 to 55
- ii. Segment 2: HP 60 to 65
- iii. Segment 3: HP 75
- iv. Segment 4: HP 85

52. In terms of the relevant geographic market, the conditions of competition are relatively homogenous throughout Pakistan with no other additional/differential taxes levied by provincial

governments. The technical standards for manufacture of tractors are also similar throughout Pakistan. Furthermore, it is noted that MTL and AGTL have a nationwide dealership network selling tractors in all the provinces of the country. There is also no bar on inter-provincial movement of tractors. Hence, the relevant geographic market appears to be all of Pakistan.

53. Based on the findings of paras 42 to 52 above the relevant market appears to comprise of all tractors produced and sold in Pakistan which can be further divided into the following four categories: (i) 50 to 55 HP (ii) 60 to 65 HP (iii) 75 HP and (iv) 85 HP.

54. In terms of spill over effect it is noted that MTL produces tractors in Lahore and AGTL in DG Khan however, tractors of both are sold and used throughout Pakistan. Similarly tractors perform the essential function of haulage of products, whether it is agriculture, construction and other commercial activities for which they tend to cross inter-provincial boundaries. Therefore, the requirement of spill over effect appears to be satisfied.

ISSUE – II: Whether any tractor manufacturer holds a dominant position in the relevant market in terms of Section 2(1) (e) of the Act? If yes, whether the conduct of the dominant player is abusive in terms of Section 3 of the Act?

ABUSE OF DOMINANT POSITION

55. Section 2 (1) (e) of the Act defines the dominant position as follows:

“Dominant position of one undertaking or several undertakings in a relevant market shall be deemed to exist if such undertaking or undertakings have the ability to behave to an appreciable extent independently of competitors, customers, consumers and suppliers and the position of an undertaking shall be presumed to be dominant if its share of the relevant market exceeds forty percent.”

56. For an abuse of dominance by an undertaking to take place, it has to be established at the very outset that the undertaking alleged of the same is deemed to have a dominant position in the relevant market. As per the Act, an undertaking is deemed to have a dominant position, if it has the ability to behave to an appreciable extent independently of its competitors, consumers and suppliers or it is presumed to be dominant if its market share exceeds 40% in the defined relevant market.

57. In the overall tractors industry, the market share of the tractors manufacturers in the last three years is tabulated below:

Market shares of tractor manufacturers in the last three years						
Tractor Manufacturers	FY 2018-19		FY 2019-20		FY 2020-21	
	Units sold	Market Share	Units sold	Market Share	Units sold	Market Share
Millat Tractors (Massey Ferguson)	32,018	64%	20,706	63%	35,527	70%
Al-Ghazi Tractors (Fiat)	17,993	35%	11,825	36%	15,129	29%
Orient Tractors (Bull Power)	394	1%	196	1%	264	1%
Total	50,405		32,727		50,920	

Note: During FY 19-20 Pakistan imported 1366 agricultural tractors

Source: PAMA

58. From the table above, it is evident that over the last three years the market share of MTL has remained more than 60% and the highest market share of 70% is recorded in the FY 2020-21. The second biggest player in terms of market share in the last three years is AGTL.

59. However, the market share across the segments vary in all four segments as defined in the relevant market above and the segment wise market shares are given below:

Relevant Market		Market Share	Dominant Position (\geq 40% Market Share)
Segment-1	HP 50 to 55	MTL 56% AGTL 44%	MTL & AGTL
Segment-2	HP 60 to 65	MTL 54% AGTL 46%	MTL & AGTL
Segment-3	HP 75	MTL 45% AGTL 55%	MTL & AGTL
Segment-4	HP 85	MTL 96% AGTL 4%	MTL

60. By virtue of their market shares, and given the fact that there are only two players in the market the customers have no choice but to purchase from either MTL or AGTL. This gives the

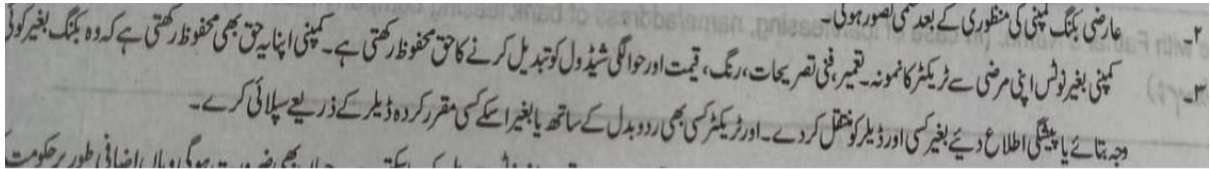
companies the power to act independently of their customers. Therefore, it appears that MTL and AGTL are dominant in the Segments 1, 2, & 3 and MTL is dominant in Segment 4 as well.

61. The enquiry committee noted certain unfair terms and conditions in the 'Provisional Booking Orders' (hereinafter, PBO) of MTL and AGTL pertaining to price, design, specification, time of delivery, among others. A detailed examination of the aforesaid PBOs are explained below:

MTL PBO

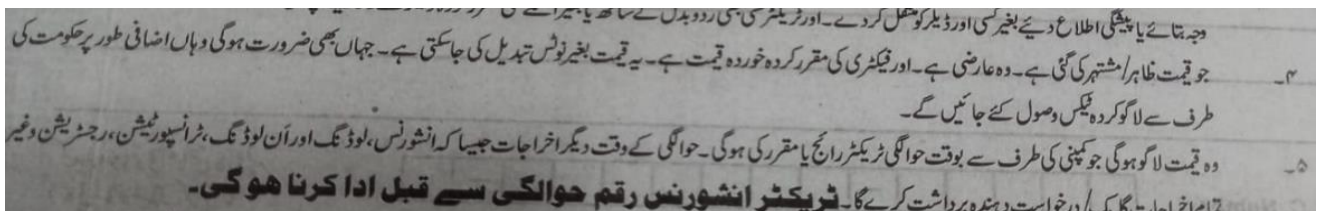
62. New tractors can be purchased through any company authorized dealer after signing a PBO. The PBO is a standard contract/agreement that is entered into between MTL and the buyer at the time of booking of tractor. PBO stipulates various terms and conditions with respect to price, design, delivery, dispute settlement among others. From a perusal of the terms and conditions of MTL's PBO appear to be unfair or restrictive in terms of the Act.
63. Some of the relevant clauses are discussed in further detail below:

Right to alter design and specifications



64. Clause 3: MTL reserves the right to alter the design, build, technical specifications, colour, price and delivery schedule of the tractor without any prior notice. The Company also reserves the right to transfer this booking to another dealer without any prior notice or without sharing any reason thereof with the customer. Besides this, the tractor may be supplied with or without such alterations and change through any selective dealer.

Right to alter Price



65. Clause 4: The indicated/advertised prices are tentative and are the factory determined retail prices. This price can be revised without prior notice. Further, if required, any applicable additional taxes imposed by the government will also be collected.

66. Clause 5: The price determined by the company at the time of tractor delivery will be applicable. All other expenses like insurance, loading and unloading, transportation, registration etc. will be borne by the customer/applicant. Tractor insurance payment must be paid before tractor delivery.

تمام اخراجات کا ہلہ درخواست دہندہ برداشت کرے۔ ٹریکٹر اور اس کے ساتھ ساتھ ہر چیز کی قیمت اور اس کی ادائیگی (کلی، جزوی) صرف اور صرف ڈیمانڈ ڈرافٹ/پے آرڈر کی صورت میں قبول کی جائے گی۔ جو کہ بنام ملٹ ٹریکٹرز لمیٹڈ ہوگا اور صرف لاہور میں ادا کیا ہوگا۔ کمپنی کسی صورت میں اس ادائیگی کی ذمہ دار نہ ہوگی۔ جو کہ کیش یا کسی اور صورت میں کسی با اختیار ڈیلر کو کی گئی ہو۔

67. Clause 6: Payment (full or partial) will only be acceptable in the form of demand draft/pay order in the name of Millat Tractor Limited and payment will only be made in Lahore. The company will in no way be responsible for any payment made in cash or kind to an authorized dealer.

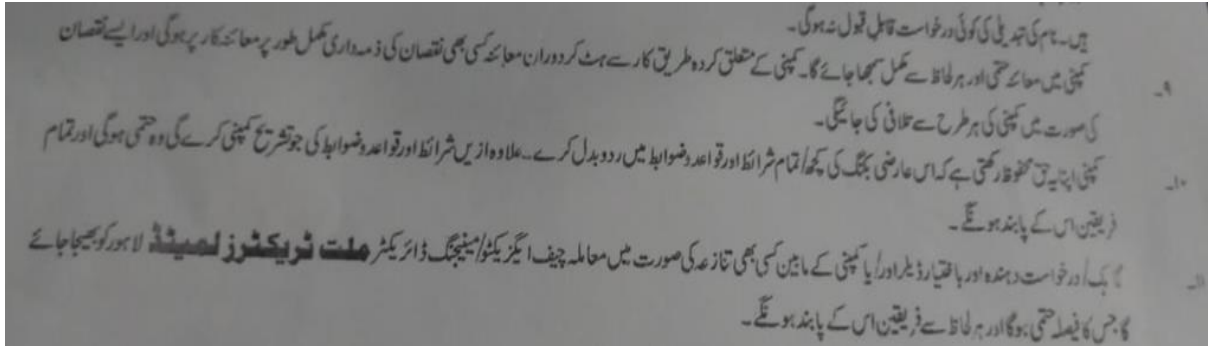
قیمت کا فرق ہو جو کہ بینک کے وقت اور ٹریکٹر حوالگی کے وقت ہوگا وہ ٹریکٹر کی حوالگی سے پہلے ادا کرنا ہوگا۔

68. Clause 7: Any differential between the price at the time of booking and delivery will have to be settled before tractor delivery.

(بنک اور برانچ کا نام) Name of Issuing Bank and Branch
مجھے/میں معلوم ہے کہ یہ بینک عبوری ہے اور مجھے/میں وہ قیمت ادا کرنا ہوگی جو ڈیلوری کے وقت رائج ہوگی اور میں/ہم ڈیلوری سے پہلے جو فرق ہوا، ادا کروں گا/کی کریں گے۔

69. Bullet 1: I/we are aware that this booking is provisional and I/we will have to pay that price which is applicable at the time of delivery. I/we will pay any differential before delivery.

Dispute settlement/Resolution



70. Clause 9: MTL's inspection (of the tractor) would be considered as final. Any damage revealed by an inspection differing from MTL's mode of inspection would be the responsibility of the person conducting such inspection and MTL would not be held liable for the same in any respect.

71. Clause 10: MTL reserves the right to alter some or all of the terms and conditions of this provisional booking. Furthermore, MTL's interpretation of the terms and conditions would be final and binding on all the parties.

72. Clause 11: Any dispute between the customer and dealer or between the customer and MTL, would be sent to the CEO of MTL whose decision in the matter would be final and binding upon the parties.

73. The above cited terms and conditions of MTL's PBO amount to unfair trading conditions in terms of Section 3(3)(a) of the Act. The relevant portion of the Act is reproduced below:

“3. Abuse of dominant position. — (1) No person shall abuse dominant position.

(2) An abuse of dominant position shall be deemed to have been brought about, maintained or continued if it consists of practices which prevent, restrict, reduce, or distort competition in the relevant market.

(3) The expression “practices” referred to in sub section (2) shall include, but are not limited to –

(a) limiting production, sales and unreasonable increases in price or other unfair trading conditions;

74. Under the terms of PBO mentioned above, MTL holds the sole right to change the design, build, color, specifications and time of delivery without any prior notice to buyers. Such clause empowers the MTL to substitute something different for what it has actually agreed to supply.

75. The power of changing of price vested with MTL under the terms of PBO without any prior notice to buyer at the time of delivery. This clause creates uncertainty as to price and buyer is not sure of how much extra amount is to be paid at the time of delivery for getting what he or she has been promised even though the “consideration” has already been paid. It is pertinent to mention here that at the time of booking, the customer pays the entire price upfront and in case of loan/leasing through banks, the bank pays the entire amount upfront at the time of booking. No legitimate business justification is provided by MTL for the change in price and the buyer has no option but to follow the dictated terms and conditions of the company.
76. Similarly, under another condition of PBO, whereby any dispute among customer and authorized dealer or company will be conclusively decided by the Managing Director of MTL whose decision shall be final and binding on all the parties instead of referring the matter to an arbitrator or any other third party. Under the one of the terms of PBO, MTL has the sole right to alter some or all terms and conditions of PBO or booking and the binding of such term on all parties. Having such a clause in the contract can be used to force the buyer to accept increased costs, new requirements, or reduced benefits, and is therefore considered unfair whether or not it is meant to be used in that way.
77. Under the circumstances, MTL's buyer is apparently in a weaker bargaining position. PBO gives MTL the sole right to (i) change the price, (ii) design/specification, (iii) Manufacturing (iv) color and delivery schedule without any notice to the buyer, (iv) a conclusive right to interpret the terms of the contract and (v) to decide the dispute between a buyer and MTL. Such terms create a significant imbalance to the disadvantage of buyer's rights and obligations arising under the contract. From the submissions of MTL to the Commission, it is noted that MTL holds a substantial market share and enjoys economic power in the Segments 1, 2, 3 and 4 of tractors market as defined in the para 42 and 60 above, which enables it to behave independent of its competitors and customers, thereby making it a dominant player in the relevant market. Thus, the terms of PBO, *prima facie*, being unfair to the buyers are in contravention of 3 (1) read with the Section 3 (3) (a) of the Act.

AGTL PBO

78. New tractors can be purchased through any company authorized dealer after signing a Provisional Booking Order. The PBO is a standard contract/agreement that is entered into

between AGTL and the buyer at the time of booking of tractor. AGTL's PBO stipulates various terms and conditions with respect to price, design, delivery, dispute settlement among others. From a perusal of the terms and conditions of AGTL's PBO appear to be unfair or restrictive in terms of the Act and appear to create a significant imbalance in the parties' rights in favour of the seller. Some of the relevant clauses are discussed in further detail below:

Right to alter design and Specifications

(3) کمپنی اپنے اس استحقاق کو محفوظ رکھتی ہے کہ وہ بغیر کسی پیشگی اطلاع کے ٹریکٹر کے ڈیزائن، ساخت، خصوصیات، رنگ، قیمت اور ٹریکٹر کی ڈیلیوری (سپلائی) کے شیڈول میں تبدیلی کر سکتی ہے۔ کمپنی اس بات کا بھی حق محفوظ رکھتی ہے کہ وہ بغیر کسی قسم کے پیشگی نوٹس کے بلنگ کسی دوسرے مستند ڈیلر کے نام تبدیل کر دے۔ علاوہ ازیں بغیر کسی پیشگی نوٹس کے مستند ڈیلر کے ذریعے ٹریکٹر بچھ یا بغیر کسی قسم کی تبدیلی کے درخواست گزار کو سپلائی کر دے۔

79. Clause 3: AGTL reserves the right to alter the design, structure/build, specifications, colour, price and delivery schedule of the tractor without any prior notice. The Company also reserves the right to transfer this booking to another authorized dealer without any prior notice. Besides this, the tractor may be supplied with or without such alterations and change through any authorized dealer to applicant without any prior notice.

Right to alter price

(4) مروجہ یا مستند خوردہ خوردہ فروشی قیمت ٹیکس کی خوردہ فروشی قیمت ہے۔ جس میں کسی قسم کا کوئی سیلون ٹیکس یا گورنمنٹ کا کوئی ٹیکس شامل نہ ہے۔ جو کسی قسم کے پیشگی نوٹس کے بغیر تبدیل کی جاسکتی ہے اور اگر کمپنی ضرورت پڑی تو یہ اضافی ٹیکس بھی وصول کئے جائیں گے۔

80. Clause 4: Prevailing or certified retail price is the factory price exclusive of sale tax and other government taxes and is subject to change without any prior notice and if required respective additional taxes shall be collected.

(5) ڈیلیوری کے وقت قیمت وہ تصور کی جائے گی جو اس وقت رائج ہوگی یا جو کمپنی نے مقرر کر دی ہوگی۔ باقی تمام اخراجات مثلاً انشورنس لوڈنگ، ان لوڈنگ، ٹرانسپورٹیشن (بار برداری) اور رجسٹریشن وغیرہ درخواست دہندہ کو برداشت کرنا ہوں گے۔

81. Clause 5: At the time of delivery that price will be considered which is prevalent at such time and that which is fixed by the company. All other expenses like insurance, loading, unloading, transportation and registration will be borne by the applicant.

(6) قیمت (مکمل قیمت یا تقابلیت کا جمع کرنا) بذریعہ بینک ڈرافٹ یا پی آر ڈر، بنام الغازی ٹریکٹرز لمیٹڈ جس کی ادائیگی پریڈ میرہ غازی خان/ملتان/لاہور میں قابل قبول ہوگی۔ کمپنی کسی قسم کی ذمہ داری قبول نہیں کرے گی اگر قیمت کیش یا جس کی صورت میں کسی مستند ڈیلر کو ادا کی گئی ہوگی۔

82. Clause 6: Payment (Full Payment or remaining amount) will be accepted in the form of pay order/demand draft in the name of AGTL in the cities of Dera Ghazi Khan/Multan/Lahore.

AGTL will not be responsible for any payment made to any authorized dealer in form of cash or in kind.

(7) بکنگ کے وقت کی قیمت اور ڈیلوری کے وقت کی قیمت میں جو فرق اگر ہو تو ٹریکٹر کی ڈیلوری سے پہلے ادا کرنا ہوگا۔

83. Clause 7: The difference of price, if any, between the price at the time of booking and delivery shall payable before the delivery of tractor.

• مجھے / ہمیں معلوم ہے کہ یہ بکنگ عبوری ہے اور مجھے / ہمیں وہ قیمت ادا کرنا ہوگی جو ڈیلوری کے وقت مانگ ہوگی۔ اور میں / ہم ڈیلوری سے پہلے جو فرق ہوا ادا کروں گا / گی / کریں گے۔

84. Bullet 1: I/we understand that this booking is provisional and I/we will have to pay the price prevalent at the time of delivery. I/we will pay any difference before delivery.

Dispute settlement/Resolution

(11) کمپنی اس بات کا پورا استحقاق (حق) رکھتی ہے کہ وہ اس عارضی (عبوری) بکنگ کی تمام شرائط یا اس میں سے کچھ میں تبدیلی کر سکے۔ مزید یہ کہ کمپنی کی تمام شرائط کی تشریح کو آخری اور دائمی تصور کیا جائے گا۔ اور اس کا اطلاق تمام فریقین پر ہوگا۔

85. Clause 11: The Company reserves the sole right to change and alter some or all the terms and conditions of the tentative booking or PBO. Furthermore, the Company's interpretation of all terms and conditions shall be final and binding on all parties.

(12) وہ تمام اختلافات جو فریقین کے درمیان ہونگے۔ صرف اور صرف مینوفیکچررز کمپنی کے ہیڈ آفس کراچی کی علاقائی حدود کے اندر ہی حل طلب ہونگے۔

86. Clause 12: All disputes among the parties will be resolved only within the territorial limitations of Head office of Manufacturer's company in Karachi.

• میں / ہم کمپنی کی پالیسی کے تحت ٹریکٹر لینے کا پابند ہوں / ہیں اور اس سلسلہ میں مجھے / ہمیں کمپنی کے خلاف کسی قسم کی قانونی چارہ جوئی کا حق نہیں ہے۔

87. Bullet: I/we are bound to purchase the tractor according to the company's policy and in this regard I/we have no right to take any legal action against the company.

88. Under the terms of PBO mentioned above, the AGTL holds the sole right to change the design, build, color and specifications without notice to buyers. Such clause empowers the AGTL to substitute something different for what it has actually agreed to supply.

89. The power of changing of price vested to AGTL under the terms of PBO without any prior notice to buyer at the time of delivery. This clause creates uncertainty as to price and buyer is not sure of how much extra amount is to be paid at the time of delivery for getting what he or she has been promised even though the "consideration" has already been paid. It is pertinent to

mention here that at the time of booking, the customer pays the entire price upfront and in case of loan/leasing through banks, the bank pays the entire amount upfront at the time of booking.

90. Similarly, under another condition of PBO, whereby any dispute between parties was to be conclusively decide in the territorial limitations of Head office of AGTL instead of referring the matter to an arbitrator or any other third party. Under the one of the terms of PBO, AGTL has the sole right to alter some or all terms and conditions of PBO or booking and the binding of such term on all parties. Having such a clause in the contract can be used to force the buyer to accept increased costs, new requirements, or reduced benefits, and is therefore considered unfair whether or not it is meant to be used in that way.

91. In view of the above, it is noted that AGTL holds a substantial market share and enjoys economic power in the Segments 1, 2 and 3 of tractors market as defined in the paras 52 and 60 above, which enables it to behave independent of its competitors and customers, thereby making it a dominant player in the relevant market. Under the circumstances, AGTL's buyer is apparently in a weaker bargaining position. PBO gives AGTL the sole right to (i) change the price, (ii) design/specification, (iii) build (iv) colour and delivery schedule without any notice to the buyer, (iv) a conclusive right to interpret the terms of the contract and (v) to decide the dispute between a buyer and AGTL. Such terms create a significant imbalance to the disadvantage of buyer's rights and obligations arising under the contract. Thus, the terms of PBO, *prima facie*, being unfair to the buyers were in contravention of 3 (1) read with the Section 3 (3) (a) of the Act.

(Copies of PBOs of MTL and AGTL are placed at **Annex-A10**)

ISSUE – III: Whether tractors manufacturers have indulged in anti-competitive activities in violation of Section 4 of the Act?

92. Section 4 of the Act defines the prohibited agreement as follows:

“Prohibited agreements — (1) No undertaking or association of undertakings shall enter into any agreement or, in the case of an association of undertakings, shall make a decision in respect of the production, supply, distribution, acquisition or control of goods or the provision of services which have the object or effect of preventing, restricting or reducing competition within the relevant market unless exempted under section 5.

(2) Such agreements include but are not limited to-
a) fixing the purchase or selling price or imposing any other restrictive trading conditions with regard to the sale or distribution of any goods or the provision of any service;

*b) dividing or sharing of markets for the goods or services, whether by territories, by volume of sales or purchases, by type of goods or services sold or by any other means;
c) fixing or setting the quantity of production, distribution or sale with regard to any goods or the manner or means of providing any services;”*

93. During the ‘enter and search’ of the premises of MTL and AGTL, handheld computer devices of senior officials of MTL and AGTL were impounded. The digital forensic analysis as provided by FIA revealed the presence of private WhatsApp conversations between the senior officials of MTL and AGTL relating to price fixing and coordination, limiting supply, competitor’s business information, etc.

EVIDENCE IN RELATION TO PRICE FIXATION / COORDINATION

94. Analysis of the record available indicates that the officials of MTL and AGTL have collectively discussed and coordinated upon the increase in the prices of tractors in the years 2018 – 2021.

95. One of the private WhatsApp conversations dated June 29, 2019 between the Official No. 1 of MTL and Official No. 1 AGTL concerning the overall increase in the prices of cars specifically by Toyota and Suzuki reads as:

Official No. 1 AGTL:

“Sir Jee when you are increasing...?”

Official No. 1 MTL responded:

“May be in July,”

Official No. 1 AGTL:

“OK sir”

96. Subsequently on July 16, 2019 MTL increased the tractors prices as per the abovementioned indication of future increase made by Official No. 1 MTL and also shared the price revision circular of MTL dated 16-07-2019 with the Official No. 1 of AGTL at 11:33 AM for confirmation. Relevant screenshot is as under:



The immediate comment from Official No. 1 AGTL on the above price circular at 11:34 AM reads as:

”بہت دیر کر دی مہربان آتے آتے“

97. Similarly on July 19, 2019 at 7:01 pm Official No. 1 AGTL shared the price revision circular of AGTL with the Official No. 1 MTL confirming their subsequent price move in the same direction. Relevant screenshot is as follows:



98. The sharing of future intent to increase prices with competitor reduces the uncertainty of the competitor's conduct and helps to predict each other's future behaviour as well as promote coordinated behaviour which consequently distorts the competition in the relevant market. The exchange of future price information also enables the competitors to identify/ predict each other's behaviour quickly and accurately than would have been possible in the absence of any explicit agreement/arrangement. Such information disclosure where there are limited competitors is detrimental to consumer welfare and greatly reduces competition in the market and therefore constitute *prima facie* violation of Section 4(1) read with Section 4(2)(a) of the Act.

99. One of the documents impounded from the premises of AGTL is the 'Minutes of the meeting of the Board of Directors of Al-Ghazi Tractors Ltd held on 22nd March 2021 which contains forecast discussion of the business wherein the following information is recorded and is reproduced below:

“AT inquired whether there is any insight available on Millat’s pricing strategy to which MEI responded that it has been deliberated with commercial teams and it is

assumed that Millat will not be increasing their price further. They have already increased their prices almost up to the same level as AGTL. A discussion pursued on increasing the price to pass on the vendor cost increases onto the customer. AT asked that AGTL must explore the possibility to increase the sale price to pass on the huge cost increases and stabilize the margin %. RA explained that traditionally AGTL has followed the lead of Millat in terms of increasing price. Historically when AGTL increased its prices before Milat, it lost substantial market share.”

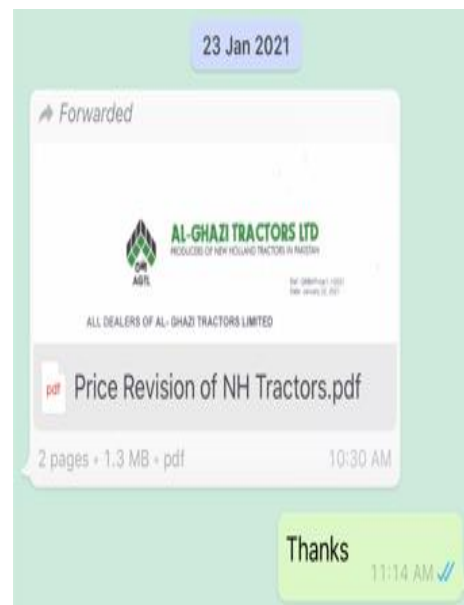
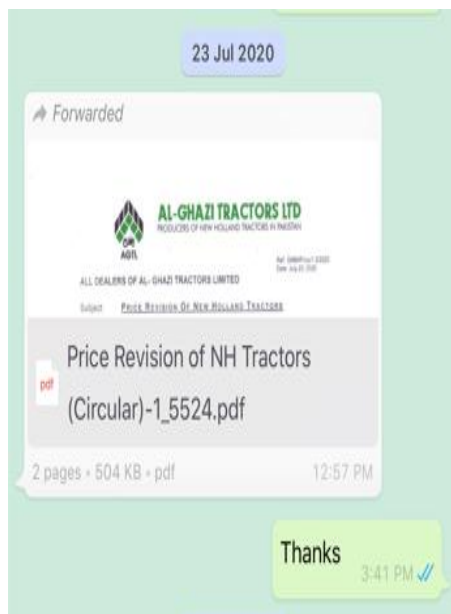
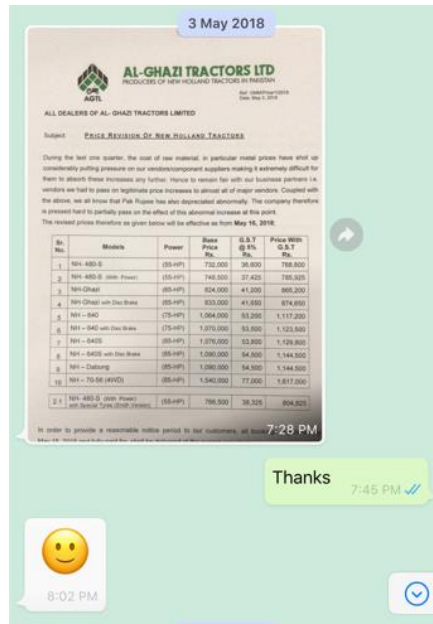
100. The above clearly indicates that the AGTL senior management gets insight of MTL’s pricing strategy through well-coordinated price controlling mechanism as apparent from earlier paras of WhatsApp communication among the officials of the competitors.

101. The enquiry committee also noted from the submissions that AGTL usually increases its prices for tractors HP (75 – 85) and HP (55 – 65) in two intervals such that the price increase circular for AGTL tractors HP (55 – 65) was circulated on August 10, 2019. It is also noted that on majority instances AGTL followed the price increase move of MTL which is also evident from one of their impounded documents ‘Minutes of the meeting of the Board of Directors of AGTL held on 03rd February 2021:

“MEI then went on to speak about the order bookings. He informed the Board that although AGTL followed Millat to increase its prices for all variants between 5 – 6% approximately, but allowed a week’s time to discount the tractor pricing (by delaying the increase by a week) to lure dealers to place orders. This although was not given the order booking to the extent of Millat but still has yielded good order booking.”

(The abovementioned AGTL Board Minutes are placed at **Annex-A11**)

102. Further, a series of instances are noted wherein price circulars (mostly sent by AGTL official and duly thanked and acknowledged by MTL Official) are being shared in the years 2018, 2020 and 2021. The relevant screenshots are consolidated and shown below:

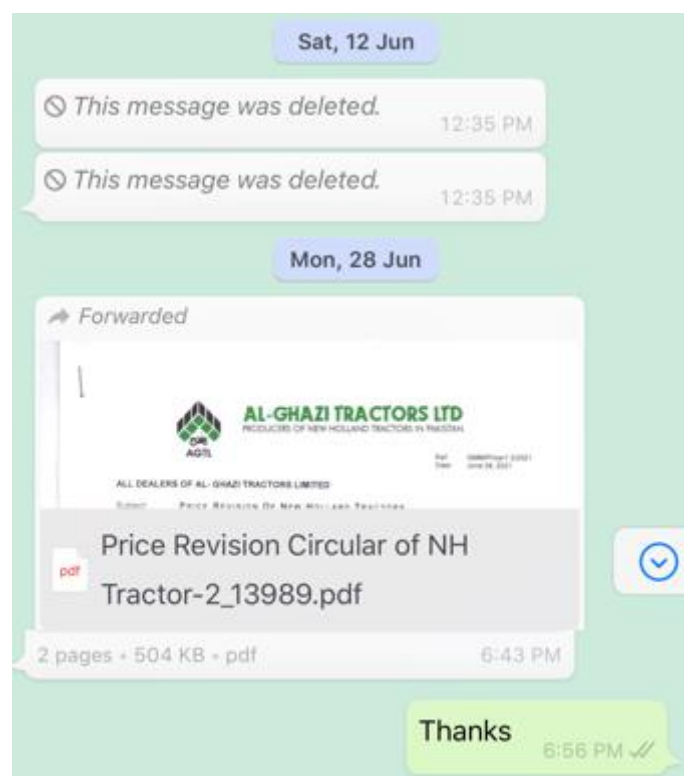


103. From the above, it is noted that on May 03, 2018 AGTL first revised its prices and the said circular was duly shared on the same day with the Official No. 1 MTL. From the submissions made by MTL, the enquiry committee noted that in four days' time i.e. May 07, 2018 MTL revised its prices of various tractors models. Similarly the WhatsApp message dated March 04, 2020 from Official No. 1 AGTL to Official No. 1 MTL regarding the AGTL price revision

circular dated March 4, 2020 is two days after MTL announces revision in prices of its tractors vide its circular dated March 02, 2020.

104. The sharing of price circulars between the officials of two competitors who could have otherwise received such price information at a later date independently from the market indicates that not only a coordinated price controlling mechanism is in place but its compliance is also ensured by frequent communication between the officials of MTL and AGTL. This well coordinated and complied price controlling mechanism allows competitors to monitor adherence to collusion which eventually leads to price fixing decisions. Such arrangement among the competitors prevents, restricts and reduce competition in the relevant market and is a prima facie violation of Section 4(1) read with Section 4(2)(a) of the Act.

105. With respect to the price revision announced by both the tractor manufacturers in June 2021, the WhatsApp conversation between Official No. 1 MTL and Official No. 1 AGTL shows that two messages on June 12, 2021 have been deleted. Following this, Official No. 1 AGTL shared the price revision circular dated 28-06-2021 with Official No. 1 MTL. The relevant screenshot is as under:



106. The enquiry committee notes that, MTL increased prices on 18th January 2021 whereas AGTL increased its prices on 22nd January 2021. Similarly, MTL increased prices on 25th June 2021 whereas AGTL increased its prices on next working day i.e. 28th June 2021. The price increase in the following products of MTL and AGTL on the aforementioned dates is exhibited below:

Millat Tractors Ltd				Al-Ghazi Tractors Ltd			
January 18, 2021				January 22, 2021			
Tractor Model	Price (Rs.)	Increase in Rs.	Increase in %	Tractor Model	Price (Rs.)	Increase in Rs.	Increase in %
MF-240 2WD HP 50	950,000	48,000	5%	480-S HP 55	949,000	49,000	5%
MF-350 Plus/ 2WD HP 50	1,040,000	72,000	7%	480-S (with power) HP 55	999,000	76,000	8%
MF-260 2WD HP 60	1,096,000	62,000	6%	Ghazi HP 65	1,095,000	64,000	6%
MF-360 2WD HP 60	1,140,000	66,000	6%	640 HP 75	1,428,000	55,000	4%
MF-385 2WD HP 85	1,508,000	58,000	4%	Dabang HP 85	1,466,000	57,000	4%
MF-385 4WD HP 85	2,050,000	51,000	3%	NH 70-56 (4*4) HP 85	1,995,000	110,000	6%

Millat Tractors Ltd				Al-Ghazi Tractors Ltd			
June 25, 2021				June 28, 2021			
Tractor Model	Price (Rs.)	Increase in Rs.	Increase in %	Tractor Model	Price (Rs.)	Increase in Rs.	Increase in %
MF-240 2WD HP 50	1,034,000	84,000	9%	480-S HP 55	1,037,000	88,000	9%
MF-350 Plus/ 2WD HP 50	1,130,000	90,000	9%	480-S (with power) HP 55	1,088,500	89,500	9%
MF-260 2WD HP 60	1,185,000	89,000	8%	Ghazi HP 65	1,185,000	90,000	8%
MF-375 2WD HP 75	1,540,000	95,000	7%	640 HP 75	1,523,000	95,000	7%
MF-385 2WD HP 85	1,610,000	102,000	7%	Dabang HP 85	1,580,000	114,000	8%
MF-385 4WD HP 85	2,120,000	70,000	3%	NH 70-56 (4*4) HP 85	2,085,000	90,000	5%

107. From the above, it is apparent that both the tractors manufacturers have increased the prices of their comparable products in close range to each other. This is also evident from another set of impounded documents from the premises of AGTL and are given below:

MILLAT TRACTORS LIMITED
 P.O. Box No. 12923 Dera Ghokhar Road, Ghokhar, Lahore, Pakistan
 UAN: +92-42-111-200-786 Tel: 37911021-25 Fax: 37923166, 37526835
 URL: www.millat.com.pk E-mail: info@millat.com.pk

TUV
 AUSTRALIA
 P.E.L.A.S.
 ISO 9001:2015
 REGISTERED

MTL/GMM/2021
 Date: 25.06.2021

ALL MAIN DEALERS

Revision in Prices of Millat's Massey Ferguson Tractors

Dear Sir(s),

Due to increase in the cost of production of tractors on account of increase in the prices of raw materials, labour, utilities, other inputs and depreciation of Pak Rupee, the prices of MF tractor models are being revised as under:

Sr. No	Tractor Model	Horse Power	New / Revised Prices (Rs.) - Ex Factory Lahore			New Prices Effective Date
			Base Price	GST @ 5%	End Selling Price Inclusive GST	
			A	B: Ax5%	C : A + B	
1	MF 240	50	1,034,000	51,700	1,085,700	All Bookings registered on & after 25.06.2021
2	MF 350 - P	50	1,130,000	56,500	1,186,500	
3	MF360-2WD	60	1,225,000	61,250	1,286,250	
4	MF360-4WD	60	1,722,000	86,100	1,808,100	
5	MF 375-2WD	75	1,540,000	77,000	1,617,000	
6	MF 375-4WD	75	1,988,000	99,400	2,087,400	
7	MF 385-4WD	85	2,120,000	106,000	2,226,000	
8	MF 260	60	1,185,000	59,250	1,244,250	All Bookings registered on & after 01.06.2021
9	MF 385-2WD	85	1,610,000	80,500	1,690,500	

Note: The previous prices shall be applicable as under:

a) **Models MF240/350P, MF360/375(2wd/4wd) & MF385(4WD):**

1. **Cash Orders**
 The financial instruments dated 25th June 2021 or earlier against the orders booked or in the process of booking received at MTL upto 06th July 2021.

Regional Offices
 Karachi: 3-A, Faysal Centre, Sindh Muslim Co Operative Housing Society, Tel: 621-34553752, 34556321 UAN: 111-200-786, Fax: 321-34556321
 Islamabad: House No. 22, Street 41, Sector F-4/1, Tel: 051-2271470, 2270693 UAN: 111-200-786, Fax: 051-2270693
 Multan/Chand: Garden Town, Quaid-e-Azam, Sheer Shah Road, Tel: 661-6537371, Fax: 661-6539371
 Sukkur: House No. B-106 Akawal Nagar Society Near Qawal Masjid Airport Road Sukkur Tel: 071-5815041, Fax: 071-5815042

	As per MTL	Proposed	Change	Change in RSP (as per MTL Changes)	Proposed	Change
480	8.80%	9.39%	0.59%	1,032,512	1,038,095	5,583
480PSV	8.80%	9.63%	0.83%	1,086,912	1,095,190	8,278
Ghazi	8.80%	8.20%	-0.60%	1,191,360	1,184,762	(6,598)
640	6.00%	6.64%	0.64%	1,513,680	1,522,857	9,177
Dabang	8.00%	8.17%	0.17%	1,583,280	1,585,714	2,434

(The relevant documents are placed at **Annex-A12**)

108. The above document further substantiates that the explicit collusion among the tractors manufacturers for closer price change in comparable products as already mentioned in earlier paras.

109. Another WhatsApp messages between the Official No. 1 MTL with Official No.2 MTL dated June 28, 2021 reveals that Official No.1 MTL shared the Price revision circular dated June 28, 2021 with the Official No. 2 MTL on the same day. In response to this, Senior Official replied:

*"Please prepare % increase and comparison with us
 Treat this as urgent"*

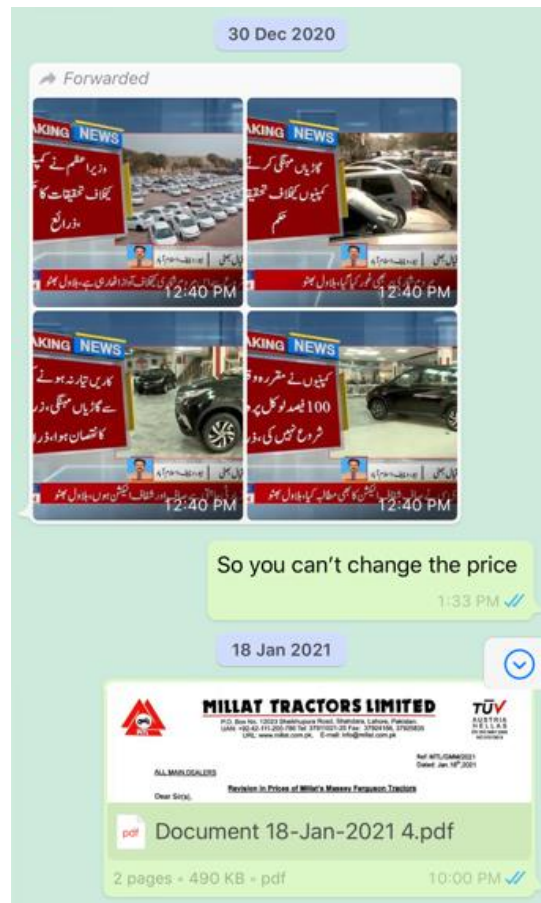
Official No. 1 MTL shared a document titled ‘MTL Vs. Competitors Prices – June 2021’ and replied:

“Dear Sir,
Both AGTL and Orient/MT models price Increase is in line with MTL models with difference as they usually maintain.”

110. At another instance, Official No. 2 AGTL has sent a WhatsApp message to Official No. 1 MTL on December 30, 2020 wherein breaking news clips regarding the initiation of investigation against the car manufacturers for increasing prices by the Government has been shared. To this, Official No. 1 MTL commented:

“So you can’t change the price”

The relevant screenshot is given below:



111. Subsequently, in a few days’ time Official No. 1 MTL shared its price circular dated January 18, 2021. It is pertinent to mention that four days after MTL’s price circular revision, AGTL also issued its price revision circular on January 22, 2021.

112. The inquisitive response from Official No. 1 MTL “So you can’t change the price” further establishes the fact that both officials remain in close coordination regarding upcoming price making decisions (at this instance in January 2021) which at that time could have been jeopardized due to the government’s action against the car manufacturers’ price increase.
113. A series of WhatsApp messages between the officials of MTL pertaining to AGTL’s business information i.e. model wise tractors daily delivery dates, monthly closing stock positions, details about bookings at down payment and pending bookings at full payment is being repeatedly shared between the Officials No. 1 and 3 of MTL in the years 2018, 2019, 2020 and 2021.
114. Although it is understandable that there might be a possibility of gathering information through market sources other than competitor. However, it is equally necessary to ponder that gathering and sharing of such critical business information in real time which is not available in public domain raises the suspicion of market monitoring mechanism in place between MTL and AGTL.
115. Based on the evidence reproduced in paras 94 to 114 above, it is evident that both competitors are in agreement/arrangement with each other on the following:
- i. Sharing and communicating future intent of pricing decisions;
 - ii. Monitoring and compliance for adherence at agreed pricing decisions;
 - iii. Maintaining price revisions in substitutable products in a closer range and sequential manner; and
 - iv. Frequent communication on pricing among the officials of the competitors.
116. In view of the above it clearly appears that undertakings are involved in the coordinated/collusive decision making with respect to price of tractors of for all models. Such price fixing decisions, taken by highest level officials of the undertakings involved. Furthermore, adherence is ensured by sharing the real time pricing decision and thereafter enabling the other competitor to announce its own increase to take affect at a future date tantamount to collusive activities in the tractors industry. Such agreement on price changes took place on 03rd May 2018, 16th – 19th July 2019, 04th March 2020, 23rd July 2020, 30th December 2020, 18th January 2021, 23rd January 2021 and 28th June 2021 and therefore constitute prima facie violation of Section 4 (1) read with Section 4 (2) (a) of the Act.

EVIDENCE IN RELATION TO CONTROLLING THE QUANTITY SUPPLY OF TRACTORS IN THE MARKET

117. A WhatsApp conversation dated August 18, 2020 from Official No. 1 AGTL to Official No. 1 MTL reveals that suggestions for delaying the delivery time of tractor in order to increase price and enhance bookings. The relevant screenshot is as under:



118. It is surprising to note that the officials of two competitors have developed such a cordial business relationship that business suggestions for controlling and limiting the quantity supply of tractors in order to realize gains in terms of price and bookings are candidly being discussed. This indicates that the tractors manufacturers are collectively controlling the supply in the relevant market which distorts competition. In a competitive market, there exists a rivalry in a market structure where there are either two or limited market players leading to fierce competition for grabbing the market share by offering lower prices, improved quality, innovation and better after sales services to the consumers. In contrast to this, the collusive behaviour between the tractors manufacturers stifles the competition and is consequentially detrimental to the consumer benefit.

119. In terms of the evidence produced in para 117 to 118, it appears that MTL and AGTL have entered into arrangement / agreement of controlling supply of tractors in the relevant market in coordinated manner. Such practice of entering into agreement to limit supply of the tractors in

the market tantamount to prima facie violation of Section 4 (1) read with Section 4 (2) (c) of the Act.

EVIDENCE IN RELATION TO RESTRICTIVE TRADING CONDITIONS
IMPOSED BY MTL & AGTL

MTL: Ban on offering discounts by dealers

120. Analysis of the documents obtained during the course of enquiry revealed that MTL is prima facie engaged in certain activities which may be classified as ‘restrictive trading conditions’. The detailed analysis is elucidated below.

121. From the submissions of MTL, it was observed that the agreement between MTL and its dealers, commonly known as the ‘Dealership Agreement’ contain certain clauses which restrict the dealers to sell the tractors below the Company set price. Relevant clauses are reproduced below:

Clause 5 of the dealership agreement:

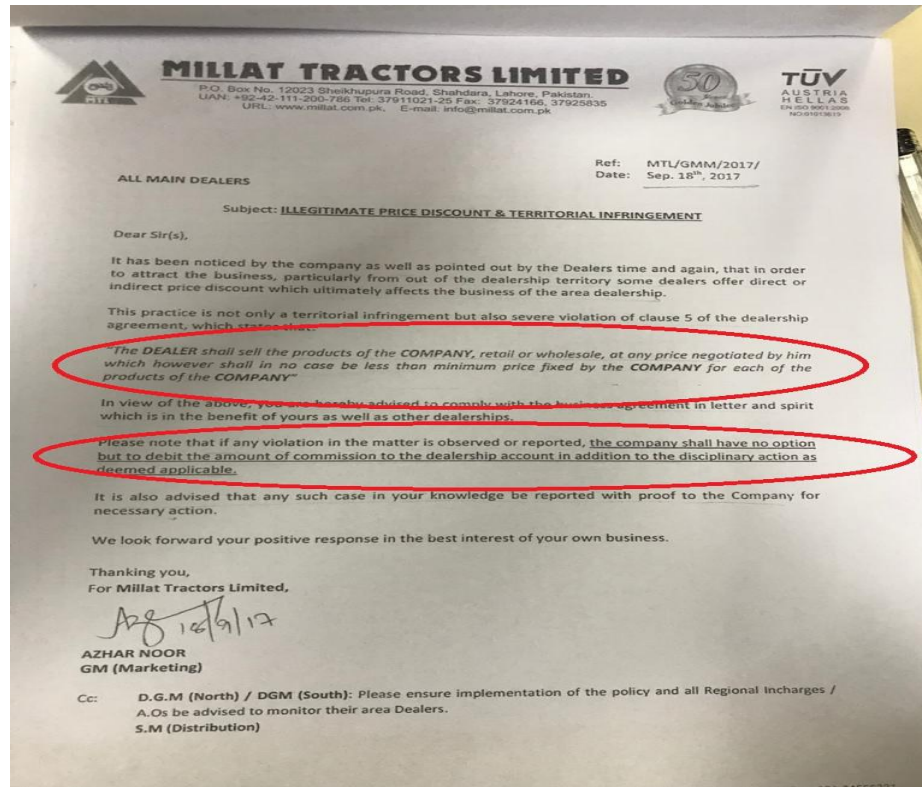
“The DEALER shall sell the products of the COMPANY, retail or wholesale, at any price negotiated by him which however, shall in no case be less than the minimum price fixed by the COMPANY for each of the products of the COMPANY”

Furthermore, **Clause 14 states:**

“The fixation and revision of the price of PRODUCTS shall always be at the option of the COMPANY”.

(Detailed dealer agreement and MTL circulars are placed at **Annex-A13**)

122. Further, the examination of the documents impounded from the premises of MTL reveal that MTL through its circular dated September 18, 2017 has implemented the mechanism of Resale Price Maintenance (RPM) on its dealers:



“The DEALER shall sell the products of the COMPANY, retail or wholesale, at any price negotiated by him which however shall in no case be less than minimum price fixed by the COMPANY for each of the products of the COMPANY.

Please note that if any violation in the matter is observed or reported, the company shall have no option but to debit the amount of commission to the dealership account in addition to the disciplinary action as deemed applicable.”

123. From the contents of the aforementioned circular, it appears that:
- MTL has fixed the minimum price at which dealers can sell the tractors to consumers which is binding on the dealers.
 - Further, the aforesaid circular also warns of the punitive and disciplinary action taken against those in violation of the said condition.

124. The restrictive clauses in the MTL dealer agreement and MTL circular dated September 18, 2017 contain elements of RPM. It is pertinent to note that RPM is different from typical price fixation. RPM occurs between businesses operating at different levels of the supply chain, whereas price fixation occurs between the competitors at the same level of production to restrain price competition. RPM is prohibited in almost all OECD countries subject to a few exemptions such as books, newspapers and medicaments due to its detrimental effects on competition such as facilitating collusion and reducing downstream competition¹⁹.

125. Section 4 of the Act, restricts buyers/resellers including dealers, or distributors, or retailers from the determination of resale price²⁰. Under the Act, agreements entered into between the undertakings, or association of undertakings regarding the imposition of restrictive trading conditions with regard to the sale or distribution of any goods or provision of services is a violation of the Act.

126. The Commission earlier deliberated upon the issue of RPM in its Order ‘In the Matter of Show Cause Notice Issued to Reliance Paints Pakistan’ wherein it held that the Respondent (Reliance Paints) had:

“....evidently imposed upon its dealers or distributor/retailers a minimum resale price to sell its products which constitutes a violation of clause (a) of subsection (2) of Section 4 of the Act as such arrangements are considered to be restrictive of intra-brand competition and price fixation by their object”.

¹⁹ <https://www.oecd.org/competition/abuse/1920261.pdf>

²⁰ In the matter of show cause notice issued to M/s. Reliance Paints Pakistan paragraph 34 http://cc.gov.pk/images/reliance_paints_30_mar_2018.pdf

127. MTL has also put in place a control mechanism to restrict the dealers discount as explained in earlier paras by offering dealer incentives and commission (in kind parts and oil instead of cash). One of the impounded documents retrieved from the premises of MTL is a circular dated March 17, 2021 wherein the undercutting²¹ practice is discouraged and is reproduced below:



انڈر کٹنگ کی حوصلہ شکنی کرنے کے لیے کمشن اور انسینٹو کا اجرا بھی پارٹ اور آئل کی صورت میں کیا جاے

128. Based on the evidence produced in paras 120 to 127, it is apparent that Millat Tractors Ltd is compelling its dealers to sell the tractors at the Company price and thereby barring the consumers/ buyers from getting the benefit of discounts which could have resulted in lower prices of tractors if the dealers had operated freely. It also appears that MTL sales mechanism is against the interest of the customers and has caused a considerable adverse effect on

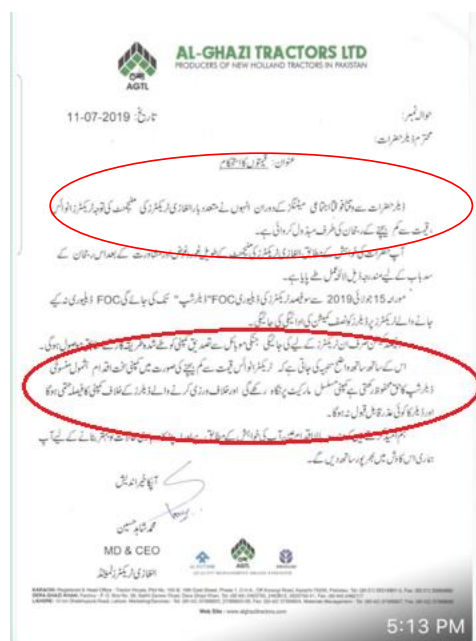
²¹ Undercutting is when the dealer sells the tractors at a price less than the Company set price or offer discount on the Company set price

competition as it led to products not being offered to customers at best prices in the market. MTL has not only entered into agreement with its dealers across Pakistan for the imposition of restrictive trade conditions (undercutting/dealers discount) amounting to minimum price maintenance, but has also monitored the same by circulating instructions to all dealers to avoid undercutting as well as warned against punitive measures. Thereby MTL appears to be in *prima facie* contravention of Section 4 (1) read with Section 4 (2) (a) of the Act.

AGTL: Ban on offering discounts by dealers

129. The same practice of RPM is also being implemented by AGTL. Forensic analysis of handheld computer device of Official 1 MTL shows a WhatsApp message, dated 12th July 2019, from Official 1 AGTL in which the latter shares a circular titled “Qeematon ka istehkam” or price stability (reproduced below and placed at **Annex-A14**). The said circular which is dated 11th July 2019 notes that AGTL’s management has been informed through various meetings with dealers of the practice of selling (tractors) below the invoice price and in order to eliminate this practice AGTL’s management has devised certain measures.

130. The circular goes on to state that AGTL clearly warns that in case tractors are sold below the invoice price AGTL would be constrained to take strict action including cancellation of dealership. The company is constantly checking the market and its decision against the offending dealership would be final.



131. From the contents of the aforementioned circular, it appears that:

- i. AGTL has fixed the minimum price at which dealers can sell the tractors to consumers which is binding on the dealers.
- ii. Further, the aforesaid circular also warns of the punitive and disciplinary action taken against those in violation of the said condition.

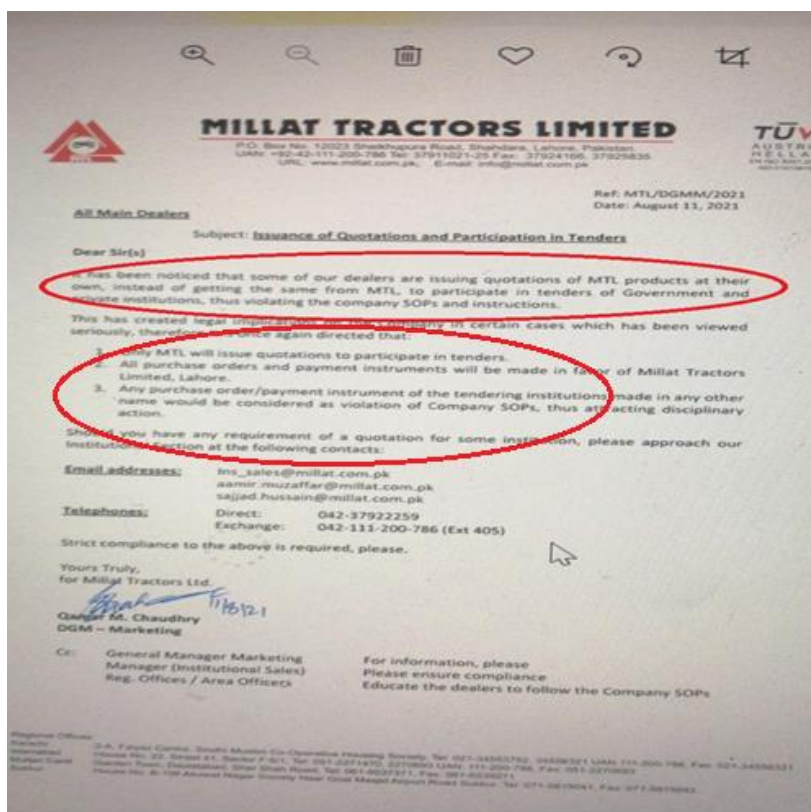
132. This circular bears all the hallmarks of a classic RPM which is discussed in the paragraphs above in relation to MTL. It is also noted that this policy of restricting dealers to not selling below the invoice price derives the customer of any discount meaning that the customer has to pay a higher price. Therefore, based on the foregoing the practice of RPM (vide circular dated 11th July 2019) by AGTL is a prima facie restrictive trading condition in violation of Section 4 (1) read with Section 4 (2) (a) of the Act.

Ban on dealers to participate in tenders

133. One of the documents impounded from the premises of MTL is a circular dated August 11, 2021 wherein MTL instructed all dealers to refrain from participating in tenders of government and private institutions:

“It has been noticed that some of our dealers are issuing quotations of MTL products at their own, instead of getting the same from MTL, to participate in tenders of Government and private institutions, thus violating the company SOPs and instructions. This has created legal implications on the company in certain cases which has been viewed seriously, therefore it is once again directed that:

- 1. Only MTL will issue quotations to participate in tenders.*
- 2. All purchase orders and payment instruments will be made in favor of Millat Tractors Limited, Lahore.*
- 3. Any purchase order/payment instrument of the tendering institutions made in any other name would be considered as violation of Company SOPs, thus attracting disciplinary action.”*



134. The abovementioned clearly indicates that MTL has placed restrictive trading conditions on its dealers by not allowing them to participate in tenders which has stifled downstream competition among the dealers which eventually distorts the competition and harm the consumers. Based on the foregoing, it appears that MTL is *prima facie* contravention of Section 4 (1) read with the Section 4 (2) (a) of the Act.

SUMMATION OF FINDINGS AND CONCLUSION

ISSUE – I: What is the relevant market?

135. Based on the findings of paras 42 to 52 above the relevant market appears to broadly comprise of all tractors produced and sold in Pakistan which can be further divided into the following four categories: (i) 50 to 55 HP (ii) 60 to 65 HP (iii) 75 HP and (iv) 85 HP.

136. Based on the finding in paragraph 54 above in terms of spill over effect it is noted that MTL produces tractors in Lahore and AGTL in DG Khan however, tractors of both are used throughout Pakistan. Similarly tractors perform the essential function of haulage of products, whether it is agriculture, construction and other commercial activities for which they tend to

cross inter-provincial boundaries. Therefore, the requirement of spill over effect appears to be satisfied.

Issue-II: Whether any tractor manufacturer holds a dominant position in the relevant market in terms of Section 2(1) (e) of the Act? If yes, whether the conduct of the dominant player is abusive in terms of Section 3 of the Act?

137. Based on the findings of paras 55 to 60 it appears that since there are two major players in the market MTL and AGTL who have the power to act independently of their customers as the latter do not have any choice but to purchase from these two players. Therefore, based on the foregoing analysis it appears that MTL is dominant in the Segments 1 (50 to 55 HP), 2 (HP 60 to 65), 3 (HP 75) and 4 (HP 85) and AGTL is dominant in the Segments 1, 2 and 3.

138. Based on the findings to paras 61 to 77 above with respect to the abuse of dominant position of MTL, it is observed that MTL's buyer is apparently in a weaker bargaining position. PBO gives MTL the sole right to (i) change the price, (ii) design/specification, (iii) Manufacturing (iv) color and delivery schedule without any notice to the buyer, (iv) a conclusive right to interpret the terms of the contract and (v) to decide the dispute between a buyer and MTL. Such terms create a significant imbalance to the disadvantage of buyer's rights and obligations arising under the contract. Thus, the terms of PBO, prima facie, being unfair to the buyers were in contravention of Section 3 (1) read with Section 3 (3)(a) of the Act.

139. Based on the findings to paras 78 to 91 with respect to the abuse of dominance on part of AGTL, it is noted that AGTL's buyer is apparently in a weaker bargaining position. PBO gives AGTL the sole right to (i) change the price, (ii) design/specification, (iii) build (iv) colour and delivery schedule without any notice to the buyer, (iv) a conclusive right to interpret the terms of the contract and (v) to decide the dispute between a buyer and AGTL. Such terms create a significant imbalance to the disadvantage of buyer's rights and obligations arising under the contract. Thus, the terms of PBO, prima facie, being unfair to the buyers were in contravention of Section 3 (1) read with Section 3 (3)(a) of the Act.

Issue-III: Whether tractor manufacturers have indulged in anti-competitive activities in violation of Section 4 of the Act?

a) Fixation and Coordination of Price

140. Based on the findings of paras 94 to 114 it appears that both competitors are in agreement with each other on (i) sharing and communicating future intent of pricing decisions; (ii) monitoring and subsequent compliance for adherence at agreed pricing decisions; (iii) maintaining price revisions in substitutable products in a closer range and sequential manner; and (iv) frequent communication on pricing among the officials of the competitors and is a *prima facie* violation of Section 4 (1) read with Section 4 (2) (a) of the Act.

b) Controlling the quantity supply

141. Based on the findings of paras 117 to 118 above it appears that the officials of two competitors have developed a cordial business relationship such that business suggestions for controlling and limiting the quantity supply of tractors in order to realize gains in terms of price and bookings are being discussed. This indicates that the tractor manufacturers are collectively involved in malpractices which distorts competition as well as harm the consumers and therefore constitute contravention of Section 4 (1) read with Section 4 (2) (c) of the Act.

c) Restrictive Trading Conditions

142. Based on the findings of paras 120 to 128 it appears that MTL sales mechanism is against the interest of the customers and has caused a considerable adverse effect on competition as it led to products not being offered to customers at best prices in the market. MTL has not only entered into agreement with its dealers across Pakistan for the imposition of restrictive tradition conditions (undercutting/dealers discount) amounting to RPM, but has also monitored the same by circulating instructions to all dealers to avoid undercutting as well as warned against punitive measures. Therefore, MTL appears to be in *prima facie* contravention of Section 4 (1) read with Section 4 (2) (a) of the Act.

143. Based on the findings of paras 129 to 132 above it appears that AGTL has put in place a practice of RPM (vide circular dated 11th July 2019) which restricts the dealers from selling below the invoice price and failing to do so would entail penal consequences for the dealers. This practice is a *prima facie* violation of Section 4 (1) read with Section 4 (2) (a) of the Act.

144. Based on the findings of paras 133 to 134 above, it appears that MTL has placed restrictive trading conditions on its dealers by not allowing them to participate in tenders which has stifled downstream competition among the dealers which eventually distorts the competition and harm the consumers. Based on the foregoing, it appears that MTL is in *prima facie* contravention of Section 4 (1) read with the Section 4 (2) (a) of the Act.

RECOMMENDATIONS

145. The tractor industry in Pakistan is a relatively small one, with just two major players competing in the market. In this situation, any collusion between the market players, like the instances highlighted in this inquiry, will lead to a serious degradation of competition in the market and harming consumer interest irrespective of the fact that Government's efforts to boost use of modern machines in the agricultural sector by providing subsidies and stimulus financial packages to uplift the economy at large.

146. Collusion and abuse of dominance is the most egregious form of anti-competitive behaviour. When competitors take collective business decisions, the market and consumers suffer from uncompetitive prices, fewer choices, and reduced quality of products. Collusion also raise entry barriers, restricting entry of new players, which further stagnates competition.

147. Therefore, it is in the public interest the Enquiry Committee recommends that the Commission may consider initiating proceedings under Section 30 of the Act against MTL and AGTL in terms of the findings of the enquiry report.

Muhammad Shamaoun
Enquiry Officer

Maliha Quddus
Enquiry Officer

Sara Jamali
Enquiry Officer