

COMPETITION COMMISSION OF PAKISTAN

ENQUIRY REPORT

(Under the provisions of Section 37(2) of the Competition Act, 2010)

**IN THE MATTER OF COMPLAINT FILED BY M/S. AMRELI STEELS LIMITED AGAINST
M/S. AR AMRELI BUILDERS & ASSOCIATES PVT. LIMITED & OTHERS FOR ALLEGED
DECEPTIVE MARKETING PRACTICES.**

BY

 
Riaz Hussain & Amin Akbar

Dated: July 30, 2024

1. BACKGROUND

- 1.1 M/s Amreli Steels Limited (the '**Complainant**') filed a complaint dated February 09, 2023 against M/s. AR Amreli Builders & Associates (Pvt.) Limited (the '**Respondent No. 1**'), M/s. Amerli Builders & Associates (the '**Respondent No. 2**'), Mr. Malik Shahzad, Chairman of the AR Amreli Builders & Associates (Pvt.) Ltd (the '**Respondent No. 3**'), Mr. Ali Haider, Chief Executive Officer, AR Amerli Builders & Associates (Pvt.) Ltd (the '**Respondent No. 4**'), Mr. Muhammad Ramzan, a Director, of the AR Amreli Builders & Associates (Pvt.) Ltd (the '**Respondent No. 5**'), collectively referred to as (the '**Respondents**') with the Competition Commission of Pakistan (the '**Commission**') for alleged violation of Section 10 of the Competition Act 2010 (the '**Act**'), pertaining to Deceptive Marketing Practices.
- 1.2 It was alleged in the complaint that the Respondents are engaged in the construction, real estate, and allied sectors and are trading under the names **AMRELI BUILDERS & ASSOCIATES** and/or **AR AMRELI BUILDERS & ASSOCIATES** and referencing themselves as being part of "**The AMRELI Group**", hence distorting competition in the market. The Complainant believes that by doing so, the Respondents has the ability to affect consumer buying and has distorted healthy competition in the market.
- 1.3 Based on the preliminary fact-finding, the enquiry was initiated dated March 02, 2023 in accordance with sub section (2) of Section 37 of the Act by appointing Ms. Urooj Azeem Awan, Deputy Director (OFT), and Mr. Amin Akbar, Assistant Director (OFT) as enquiry officers (collectively the '**Enquiry Officers**'/ '**Enquiry Committee**'). Upon Resignation of Ms. Urooj Azeem Awan on November 21, 2023, the Enquiry Committee was reconstituted by adding Mr. Riaz Hussain, Deputy Director (OFT) as new enquiry officer in the instant matter. The new Enquiry Committee was directed to conduct the enquiry on the issues raised in the complaint, and to submit the enquiry report by giving its findings and recommendations, *inter alia*, on the following:
- i. *Whether the conduct of the Respondents' is capable of harming the business interest of other undertakings in, prima facie, violation of Section 10 (2)(a) of the Act?*
 - ii. *Whether the Respondents' is disseminating false and misleading information to consumers, including the distribution of information lacking a reasonable basis, related to the character, place of production, properties, and quality of goods in, prima facie, violation of Section 10(1) in general and in particular, Section 10(2) (b) of the Act.*
 - iii. *The Respondents are violating Section 10 (1) of the Act, in terms of Section 10 (2) (d) of the Act, which prohibits fraudulent use of another's trademark, firm name, or product labeling or packaging; and/or*
 - iv. *Whether there is a spillover effect of the conduct of the Respondents?*

2. THE COMPLAINT:

- 2.1 The Complainant stated that the Respondents are engaged in the construction, real estate and allied sectors and are trading under the name **AMRELI BUILDERS & ASSOCIATES** and/or **AR AMRELI BUILDERS & ASSOCIATES** and referencing

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themselves as being part of “**The AMRELI Group**” and in addition to the unauthorized use of the Complainant’s registered **AMRELI** trademark and its associated intellectual property, the Respondents have also systemically copied the entire trade dress of the Complainant including the distinctive **AMRELI** logo along with the yellow and grey color scheme. It is clear that the prime motive of such adoption is to unfairly derive profits at the expense of the Complainant, who has amassed an unparalleled reputation under the **AMRELI** banner.

- 2.2 The Complainant had also commenced proceedings for infringement against the Respondent No.2 and 3 for the use of the mark **AMRELI**; the associated and the distinctive **AMRELI** trade dress before the Intellectual Property Tribunal of Islamabad bearing Suit No. 22 of 2022. Moreover, the Learned IPT, keeping in view the Complainant’s proprietary rights and its violation thereof, has granted an Injunction Order restraining the said Respondents from using the trademark/ tradename **AMRELI** and its associated intellectual property in any manner whatsoever.
- 2.3 Moreover, immediately after the institution of the suit and grant of an injunction order dated 19.09.2022, the Respondents, in order to frustrate the injunctive order, incepted a company by the name of **AR AMRELI BUILDERS & ASSOCIATES (PVT). LTD.** This Company is currently at the forefront of the infringing operations and has multiplied the use of the infringing mark through its marketing activities and begun promoting the same under the banner of the “**AMRELI GROUP**”. It is pertinent to mention here that Respondent No. 3 is designated as the Chairman of the said Company, whereas the Respondent No. 4 is the CEO/ Director, and Respondent No. 5 is the Director of the Company.
- 2.4 Furthermore, the act of fraudulently adopting the Complainant’s registered trademark **AMRELI** is also detrimental to the trade prospects and proprietary rights of the Complainant, who has built the **AMRELI** brand over decades of hard work and investment. These actions also show a deliberate and blatant disregard of the applicable Laws, and since such anti-competitive acts attract the provisions of the Act, the Complainant craves indulgence of this Learned Forum for a just and appropriate action.
- 2.5 The Complainant is a Pakistan’s largest manufacturer of steel bars and is recognized as a pioneer in Pakistan’s steel industry. Since its inception in 1972, it has evolved from a family-run business to being one of the most prestigious companies listed on the Pakistan Stock Exchange today. It has further penetrated the market with its expansive business outreach with over 200 authorized retailers and offices across the country. Moreover, its success and reputation in the market are further substantiated by its revenues of almost PKR 40 Billion and a contribution of almost PKR 8.56 Billion (FY 2020: Rs.5.30 billion) towards the National Exchequer on account of various government levies, taxes, and import duties.
- 2.6 The Complainant mentioned that it continues to use and promote its offerings under the banner of **AMRELI** for more than five decades. During this time, it has been entrusted with the development of some of Pakistan’s iconic landmarks including; *Agha Khan University Hospital in Karachi, Allama Iqbal International Airport in Lahore, Benazir Bhutto International Airport in Islamabad, Jinnah International Airport in Karachi, MCB Tower, Northern Bypass and Port Grand.* The success of these colossal projects with

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governmental and non-governmental entities has enabled it to expand its reach throughout Pakistan and has earned a tremendous reputation amongst the public at large. Thus, its efforts are well-recognized and have resulted in an instant recognition of the **AMRELI** brand with goods and/or services emanating from the Complainant.

2.7 The Complainant mentioned that it has developed a sophisticated operation, investing in state of the art technologies and providing for a healthy work environment. In this regard, it is worth mentioning that its manufacturing facility for the ISO 9001 Quality Management System is certified by The Lloyd's Register Quality Assurance, which further affirms the adoption of stringent research and training in the manufacturing process. The success of **AMRELI** is further substantiated by its recognition by the Pakistan Credit Rating Agency as one of the leading players in the steel industry of Pakistan. It has also received recognition from independent analysts/sources, which further affirms its commercial success.

2.8 The Complainant stated that it has instilled innovation as a key driver for growth and consequently achieved exponential growth pertaining to its range of products and services in the concerned sectors thereto. Owing to its distinct strategies, the public at large recognizes **AMRELI** as the Brand of Firsts. One of such iconic moves was the bold initiative of importing and installing Pakistan's first automatic re-rolling mill to produce steel bars. Owing to its exemplary quality and professionalism, it evolved into a market leader in the construction and steel industry of Pakistan and within a very short span of time, **AMRELI** acquired a number of benchmarks in the domestic industry.

2.9 As aforementioned, the Complainant, being aware of the changing market trends, is continuously developing its products under the trademark/ trade name **AMRELI**. Therefore, the Complainant focuses on continuously developing and introducing a diverse range of products and services under the trademark **AMRELI** for all categories and market segments. Some of the major products of the Complainant bearing the mark **AMRELI**, either alone or in conjunction with other variations, are used for residential and commercial projects in Pakistan.

2.10 The Complainant stated that being vigil about its corporate social responsibility has significantly worked towards upholding the same towards its employees, shareholders, businesses, affiliates, governmental authorities, clientele, and the public at large under the banner of **AMRELI**. In this regard, it has launched a number of initiatives either independently or in collaboration with other renowned organizations to improve the grassroots of society, especially in the areas of education, community, and healthcare. Some of its most prominent affiliations/collaborations have been with the *The Citizens Foundation, the Hunar Foundation and Civil Hospital Thatta*, amongst others. Furthermore, it has further fostered a unique sense of sophistication and grandeur in the brand identity of **AMRELI** and has recently founded the **AMRELI Foundation** to advocate for numerous sensitive and deep-rooted issues and concerns prevalent in society, including educational disparity and availability of basic healthcare infrastructure.

2.11 Therefore, the Complainant, being the proprietor of the **AMRELI** trademark and the associated intellectual property, is warranted exclusive rights of trading, marketing, manufacturing, promoting and/or distributing goods and/or services bearing the **AMRELI**


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trademark. Thereby, any unauthorized use, supply, marketing, promotion, distribution, and/or sale of any products and services bearing the AMRELI trademark in any way or any variations thereof is a blatant violation of Section 10 of the Act and the established proprietary rights of the Complainant.

2.12 The Complainant mentioned that it is deeply aggrieved by the Respondents blatant and unabashed infringement of its intellectual property rights vested in the trademark AMRELI, which continues to expand on several fronts. This includes but is not limited to marketing, promotion, offering for sale, and its services under a deceptively similar mark to the Complainant's registered trade name/ trademark AMRELI. Thus, the Respondent's act of unauthorized and illegal use of the Complainant's protected intellectual property is to further the nefarious design of the Respondents to seek illegal and undue benefit at the expense of the Complainant, resulting in loss to the Complainant's business interests, hence the instant Complaint.

2.13 The Complainant stated that the Respondents, in the sheer negation of the Complainant's rights, have commenced operations under the trade name/ trademark AMRELI which, being the integral identifier of the Complainant's trade, is also its house mark, and the same is duly registered with the Trade Marks Registry, Intellectual Property Organization. Thus, the adoption of a deceptively similar mark by the Respondents is against the cardinal principle of law and established ethical norms of business and is capable of harming the business interests of the Complainant.

2.14 It is worth noting that in addition to the adoption of the Complainant's trademark

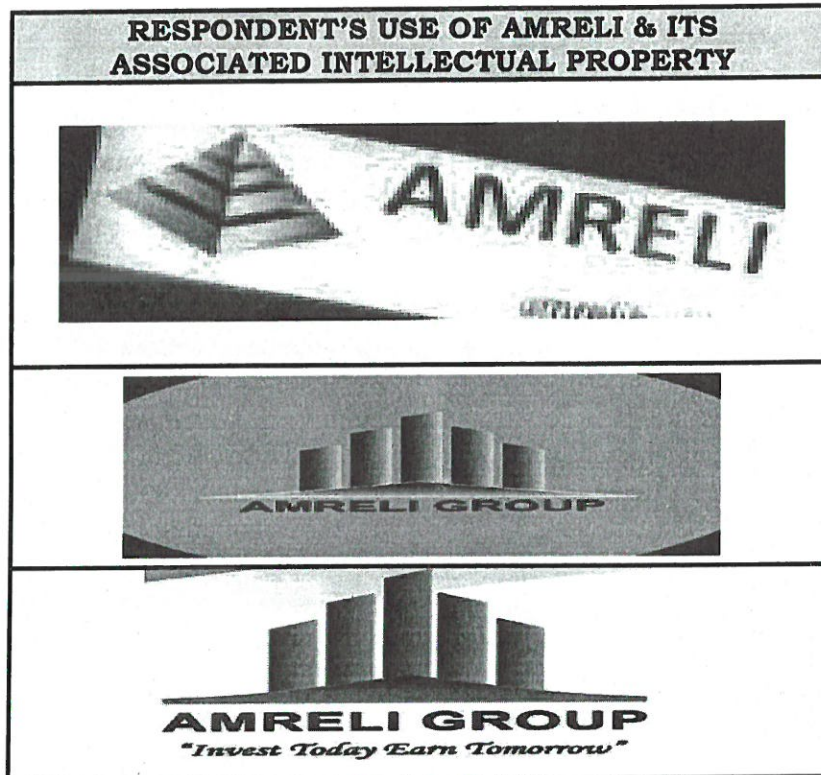
AMRELI, Respondent No.1 had fraudulently adopted an identical logo  in terms of color, graphic, design, font, and stylization to the Complainant's registered trademark and

artistic work . Therefore, the Complainant, being perturbed and deeply aggrieved by the blatant violation of its exclusive proprietary rights, served the Respondent No. 1 a Legal Notice dated March 03, 2022. Pursuant to the receipt of the Notice, the Respondent No.1 ceased the use of the identical pyramid logo and adopted a deceptively similar logo design. However, the Respondent No. 1 continued to use the mark AMRELI for its business and in fact started specifically referring to itself as "AMRELI Group".

2.15 A perusal of some of the ways in which the Respondent has imitated upon the Complainant's registered intellectual property rights is as below:-

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2.16 As per the Complainant the use of AMRELI and the identical logo establishes beyond any doubt that the Respondents have adopted the mark, imitating the Complainant's mark AMRELI with the sole intention of copying the Complainant and to ride on the coattails of the Complainant's well-established goodwill. As aforementioned, the Complainant filed a Suit for Infringement and Permanent Injunction before the Intellectual Property Tribunal ICT & KPK at Islamabad bearing Suit No. 22 of 2022 against the Respondent No.1 and its Sole Proprietor, Malik Shahzad, the Respondent No. 3 herein. The Learned Court, upon consideration of the material facts and in recognition of the Complainant's rights, was pleased to pass an injunction order dated 19.09.2022, thereby restraining the Respondent No.1 and 3 from the use of the mark AMRELI either alone and/or in any deceptively similar manner thereto. The Learned Court was also pleased to pass permanent injunction order dated 12.06.2023, thereby restraining the Respondent No. 1 and 3 from the use of the mark AMRELI in any manner whatsoever.

2.17 In order to circumvent the above-mentioned Orders and the due process of law, the Respondents, with utmost malice, incorporated a private limited company under the title AR AMRELI BUILDERS & ASSOCIATES PVT. LTD. (the Respondent No. 2 herein) and is actively operating through the said entity. It is apparent that the aforementioned acts reflect the ill-intentions of the Respondents to drive upon the established reputations of the Complainant's business under the AMRELI banner and to deliberately and purposefully mislead the general public through the false likelihood of association with the Complainant.

2.18 The Complainant stresses that the brazen and unhindered use of the Complainant's registered mark AMRELI coupled with the Respondents promotion of being a part of the "AMRELI Group" which is singularly associated with the Complainant, is primarily aimed



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at deriving an undue benefit of the goodwill and reputation of the Complainant's AMRELI brand and highlights the mala fide on the part of the Respondents. Therefore, it is clear that *fraudulent use of the Complainant's trademark, trade name, and its associated intellectual property* by the Respondents is for the sole purpose of *harming the business interest of the Complainant* and is also intended to mislead the customers and the public at large regarding the *properties, place of production or services and/or origin of the offerings*.

2.19 Moreover, it is well settled, as per the precedents stipulated by this Honorable Commission, that the fraudulent adoption of another undertaking's trademark is in clear contravention of the Act. In fact, the said adoption by the Respondents is to cause grave injury to the Complainant's established reputation in the market and to grab the general public's attention to create undue demand for its offerings. Hence, the unauthorized and blatant use of the Complainant's registered trade/ service mark without any authorization by the Respondents is in violation of Section 10 of the Act and clearly has the potential to further harm the business interest of the Complainant.

2.20 The Complainant stated that it is equally well established as per the applicable laws and the precedents laid down by this Honorable Commission that a mere potential harm to the business interests of the Complainant suffices to constitute a violation of the provision of Section 10(2)(a) of the Act (2022 CLD 1343). Thus, since the Respondents continue to negate all established norms of business by marketing and trading under the name and style of AMRELI, they have actively distorted fair competition in the market, and the Complainant humbly seeks the Commission to direct the Respondents to cease the use of the said activities, with immediate effect. The Honorable Commission has further stressed the importance of advertising in relation to the real estate sector and the presence of unscrupulous elements therein. The Commission has also settled that deceptive marketing practices harm growth in the realtor sector and cause a loss to the sustainability of Pakistan's economy and must be discouraged at all costs (2018 CLD 350).

2.21 Keeping in line with the same, the Complainant humbly submits that the deceptive use of the mark "AMRELI", which has a tremendous standing in the local marketplace, shall inevitably have a detrimental impact on a potential stakeholder. Thus, the dissemination of such misleading information is not only capable of hurting the business interests of the Complainant but is also likely to deceive the general public as to the source and origin of the offerings bearing the mark AMRELI. Therefore, the acts of the Respondents are in clear negation of Section 10(2)(d) of the Act, and warrant immediate indulgence of this Honorable Commission.

2.22 In addition, the Respondent's contentious actions are further promoted through continuous use, marketing, offering of services, and promotion of the same on various forums online, including but not limited to Facebook, Zameen.com, and LinkedIn. Some of these are as below:-

- <https://amrelibuilders.com/index.php/>
- https://pk.linkedin.com/company/amrelibuilders?trk=public_jobs_topcard_logo
- https://www.zameen.com/Profile/Islamabad-Amreli_Builders_Associates-191636-1.html


- 2.23 As per the Complainant, the Respondent's acts are driven with the mal intent of distorting and abusing fair competition by unfairly misappropriating the Complainant's trademark **AMRELI** and its associated intellectual property in an attempt to create a false impression of association with the high quality goods and services of the Complainant. Thus, if the Respondent's acts are to persist any further, the same is likely to result in irreparable damage and loss to the goodwill of the Complainant's **AMRELI** brand and its overall business interests. The Respondent's deliberate, willful, and intentional actions as aforesaid are contrary to fair and healthy competition in the industry and are in utter violation and breach of Section 10 of the Act. The Respondents are marketing and continuing to use the renowned and registered trademark/ trade name **AMRELI** and its associated intellectual property without permission of the Complainant and despite being fully aware of the Complainant's proprietary rights vested in the said trademark. Such unauthorized and fraudulent use of the registered trademark/ trade name **AMRELI** of the Complainant falls within the meaning of the 'Deceptive Marketing Practices' as defined under Section 10 (2) (d) of the Act and is prohibited under Section 10(1) of the Act.
- 2.24 The Complainant humbly submitted that this Learned Forum has, through a number of its judgments, deprecated acts of such false and misleading information and rightly restrained such acts as those of the Respondents. Thus, the instant proceedings are filed for violations of statutory provisions of Section 10. The Complainant further stated that the right to trade is a constitutional right, and it is equally well-established as per a number of precedents of the Superior Courts that the regulation of trade and business is also a constitutional requirement. If the intent of the legislature is taken into account, the Complainant's trade warrants legal protection against such anti-competitive practices of the aforementioned Respondents, and hence, this Learned Commission is to take any necessary action warranted for a competitive operation in the concerned market in accordance with law.
- 2.25 The Complainant has been and will continue to be irreparably harmed and damaged by the Respondent's conduct. The Complainant also has sustained damages as a direct and proximate result of the Respondent's tactics and unfair practices in the market. If the Respondents are allowed to carry on with their deceptive and unfair practices, the Complainant will suffer substantial business losses and irreparable harm to its goodwill and reputation. Furthermore, these deceptive marketing practices have a direct impact on the customers and the trade in general, as it is in the interest of the general public that the Respondents should be stopped from such actions.
- 2.26 The Complainant stated that in view of the above legal and factual submissions, it is clear that the Respondents have adopted the mark **AR AMRELI BUILDERS & ASSOCIATES** and/or **AMRELI BUILDERS & ASSOCIATES** to thrive on the reputation built by the Complainant's registered trademark **AMRELI** over the course of several decades. It is pertinent to state that Complainant is warranted statutory protection against such illegal acts and competitors willing to take unfair advantage of the status and reputation of the Complainant's renowned trademark and business reputation. Thereby, the Respondents shall be restrained from such unauthorized use and dissemination of false and misleading information to the general public at the earliest as the same tantamount to unjust enrichment of the Respondents through such blatant exploitation of the Complainant's well-established rights.

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2.27 The Complainant stated that it craves leave to add, amend, alter, or vary further grounds at the time of hearing.

2.28 The Complainant resultantly prayed for the following reliefs:

- a) Initiation of proceedings in accordance with the procedure of the Act and in particular as per Section 30 of the Act;
- b) An order permanently restraining the Respondents, either jointly or severally, from engaging in Deceptive Marketing Practices by using the mark AMRELI, either alone or in conjunction with any other mark, device, logo, or any variation thereof on any goods or services, and/or from engaging in unfair business practices and harming the business interest of the Complainant through use, advertisement and marketing of goods or services bearing the mark AMRELI, either alone or in conjunction with any other mark, device or logo or any variation thereof and/or from disseminating misleading information through the publication of materials bearing the mark AMRELI, either alone or in conjunction with any other mark, device or logo or any variation thereof;
- c) An order directing the confiscation, forfeiture, destruction, and /or market withdrawal of all materials bearing the mark AMRELI, either alone or in conjunction with any other mark, device, logo, or any variation thereof, that carries the potential to distort the competitive nature of the market and mislead and deceive the general public through the unauthorized use of the Complainant's trademark AMRELI trademark and/or other associated intellectual property, in any manner whatsoever;
- d) An order directing the Respondents to take down all promotional, advertisement, or printed material carrying visual content depicting the services of the Respondents that carry the Complainant's registered trademarks AMRELI trademark, either alone or in conjunction with any other mark, logo, or device, and/or other associated intellectual property, including from billboards, electronic media, social media, and print media, or any other form of disseminating information;
- e) For the order pursuant to the instant complaint to direct the Respondents to submit a compliance report within 60 days of the order with the directions of the order, in particular with Section 10 of the Act;
- f) An order directing the Respondents to compensate the Complainant for losses suffered as a result of its deceptive marketing practices, which the Complainant estimates to be in the region of 200 Million Rupees.
- g) Any other relief deemed by the Honorable Commission.

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3. RESPONDENT'S COMMENTS:

- 3.1 The complaint was forwarded to the Respondents for comments on March 09, 2023. The Respondents didn't reply, and a reminder dated March 27, 2023, was sent to the Respondents. The Respondents didn't reply in the stipulated time period, and a final reminder dated April 10, 2023, was sent. The Respondents submitted its reply vide letter dated April 17, 2023, which is summarized below.
- 3.2 The Respondents stated that the Complainant has no cause of action or locus standi to file the present complaint. The averments of the complaint do not disclose any cause of action against the Respondents therefore, the complaint is liable to be rejected. Furthermore, the Respondents stated that the complaint merits dismissal as it is badly barred by law as well as hit by the copyright act itself.
- 3.3 The Respondents stated that the complaint has been filed by the Complainant with the malafide intention just to take time and try to use his malpractices, which he had already tried to his level best, but the law is there for such persons.
- 3.4 The Respondents mentioned that they are doing their business privately under Sole Proprietorship, and there is no provision under this law to file a complaint against a private person having no copyright or trademark. It is worth mentioning here that the answering defendants belong to the village (Amreli) in India near Karachi, so they are using their native town name and there is no copyright or trademark infringement because this name is not specific and it is for all the residents who belong to this area. Moreover, the Respondents are of the view that the complaint is frivolous and vexatious, which is just to waste the precious time of the Commission and liable to be rejected with compensatory costs.
- 3.5 Secondly, the Respondents replied to the facts of the complaint. The Respondents denied the contentions raised in the complaint and stated that every citizen of Pakistan has a fundamental right to do business of his own choice or name, and no one can stop under the legal parameters. Furthermore, no infringement has been done by the Respondents, and no cause of action has arisen to the complainant.
- 3.6 The Respondents respectfully prayed that the complaint is baseless which is liable to be dismissed being barred by law and without cause of action with compensatory costs to meet the ends of justice.

4. REJOINDER:

- 4.1 The reply of the Respondents was forwarded to the Complainant for its comments/rejoinder vide letter dated April 17, 2023. The Complainant submitted its rejoinder vide letter dated May 08, 2023, the contents of which are reproduced in the following paras.
- 4.2 The Complainant stated that the Respondents have miserably failed to prove that their adoption of the mark AMRELI is honest and have entirely relied on the assertion that AMRELI is the name of a town. The Respondents have misconstrued that the town AMRELI is connected to Karachi, though the town is not even within the boundaries of Pakistan. It may be emphasized that the said name of the town does not impose any bar

over the use of **AMRELI** as a trade name/ trademark or as an identifier of the goods and services of the Complainant, and in fact, the mark **AMRELI** is duly registered with the Trademarks Registry, Intellectual Property Organization, Pakistan.

- 4.3 Moreover, the Respondents have entirely ignored the potential for public harm caused by the Respondents fraudulent adoption and use of the mark **AMRELI** and have indeed made the outlandish remark that steel is not connected with real estate and construction sectors. Moreover, in Pakistan, established groups have engaged in the real estate sector, and there is every likelihood that the Respondents use of the mark **AMRELI** is linked to the Complainant. There is no doubt that **AMRELI** is a renowned name with a 50 year legacy and was listed on the Pakistan Stock Exchange. Furthermore, the Respondents were using the mark **AMRELI** along with an identical logo in terms of colour, graphic, design, font and stylization until the Complainant's legal notice, which clearly shows that it was a fraudulent imitation of the Complainant's registered trade name/ trademark and logo.
- 4.4 The Complainant mentioned that it is apparent that the Respondents are culpable to Section 10 of the Act. The Complainant further stated that it is entitled to the relief, which is not only a statutory guarantee but necessary to public harm; moreover, the Complainant is extremely worried that any continuing use by the Respondents purported for the real estate sector can endanger the savings and investments of common people. Hence, the Respondents be immediately restrained from using the trade name/ trademark **AMRELI**.
- 4.5 The Complainant denied the contents of para 3.2 above, for being misconstrued and baseless. The complaint is filed against the fraudulent adoption of the Complainant's registered trade name/ trademark **AMRELI** and to mislead the public at large by creating a false trade association with the Complainant which is in contravention of Section 10 (2)(d) of the Competition Act, 2010. Hence, the Respondents acts warrant initiation of proceedings in accordance with Section 30 of the Act at the earliest.
- 4.6 The Complainant denied the contents of para 3.4 above by stating that the Respondents have wrongly placed reliance on copyright statute to substantiate their ill-doings without providing any reasoning. The Respondents have miserably failed to address the valid legal assertions brought forth in the captioned complaint. Notwithstanding the above, it may be noted that **AMRELI** is a registered trademark, and its artistic works are registered with the Copyright office. Moreover, the Respondents have miserably failed to substantiate any honest adoption of the mark **AMRELI** and have raised such averments to allude to the due process of law in an attempt to misguide and mislead this Honorable Forum.
- 4.7 The Complainant denied the content of para 3.4 for being incorrect, ludicrous, and ill-advised. The Respondents have wrongly placed reliance on the fact that the competition laws and/or violation of trademarks and copyrights do not apply to sole proprietorship concerns as the provisions of Section 2 (q) of the Act, clearly define an undertaking which includes natural and legal persons. It is further reiterated that the Respondents irrational reliance on the fact that **AMRELI** is a town which is close to Karachi is an utter misrepresentation of the true facts and is irrelevant. The Respondents have miserably failed to raise a single substantive legal ground to justify their acts of fraudulently imitating the Complainant's registered trade name/ trademark **AMRELI**, which is an explicit violation of Section 10 of the Act.

- 4.8 The Complainant stated that all the contents of the para-wise reply are denied in their entirety for being general in nature and are rejected outrightly. It is specifically refuted that **AMRELI** is somehow generic/ common to trade or that the Respondents adoption is in good faith. The Respondents have not provided any rationale for their adoption of the mark **AMRELI** except that it is the Complainant's famous and well-known mark. It is also specifically refuted that there is no likelihood of confusion and deception and that steel is unrelated to the construction and real-estate sector, as there can be no doubt that steel and construction materials, in general, are allied with the construction and real estate sectors.
- 4.9 The Complainant prayed that in view of the above submissions, combined thereof with the averments of the captioned complaint, this Honorable Forum may be pleased to initiate proceedings against the Respondents in accordance with the Act. It is further requested by the Complainant that the matter be taken up urgently as the fraudulent use of the **AMRELI** trade name/ trademark by the Respondents continues unabated and can result in considerable public harm.

5. ANALYSIS:

- 5.1 As mentioned in para 1.3 above, the mandate of this enquiry is to find out whether, *prima facie*:
- i. *the conduct of the Respondents is capable of harming the business interest of other undertakings in, prima facie, violation of Section 10 (2(a)) of the Act?*
 - ii. *the Respondents are disseminating false and misleading information to consumers, including the distribution of information lacking a reasonable basis, related to the character, place of production, properties, and quality of goods in, prima facie, violation of Section 10(1) in general and in particular, Section 10(2) (b) of the Act.*
 - iii. *The Respondents are violating Section 10 (1) of the Act, in terms of Section 10 (2) (d) of the Act, which prohibits fraudulent use of another's trademark, firm name, or product labeling or packaging; and/or*
 - iv. *Whether there is a spillover effect of the conduct of the Respondents?*
- 5.2 The Complainant in its submission stated that it is a company listed on the Pakistan Stock Exchange and is recognized as a pioneer in the **Steel Industry**, while the Respondent No. 1 in its submission mentioned that it is a Private Limited company and has been a pioneer of the modern **Real Estate industry**.

Details of Trademark Registration with the Intellectual Property Organization (IPO)

- 5.3 The Complainant stated that it is the registered proprietor, originator, and bonafide user of the trade name/ trademark **AMRELI**, which is used for its diverse range of products and services. Combined thereof, with its decade of extensive use of the trademark/ service mark

'AMRELI' both for its goods and services and as its trade name, the offerings under the same trademark have acquired tremendous goodwill and reputation.

5.4 Details of the registered trademark of the Complainant are provided below:

No.	Trademark	TM No.	Date of Registration
1.	AMRELI (in class 1)	535631	July 10, 2020
2.	AMRELI (in class 19)	535629	July 11, 2020
3.	AMRELI (in class 20)	535638	July 11, 2020
4.	AMRELI STEELS ULTIMA (in class 6)	535665	June 18, 2020
5.	AMRELI STEELS XTREME (in class 6)	535668	June 18, 2020
6.	AMRELI STEELS MAXIMA (in class 6)	535672	July 11, 2020
7.	AMRELI STEELS XTREME (in class 35)	535600	September 25, 2020
8.	AMRELI STEELS MAXIMA (in class 35)	535669	September 25, 2020
9.	AMRELI (in class 36)	535651	July 11, 2020
10.	AMRELI STEELS MAXIMA (in class 37)	535670	September 25, 2020
11.	AMRELI (in class 37)	535652	March 30, 2022
12.	AMRELI STEELS XTREME (in class 37)	535671	September 25, 2020
13.	AMRELI (in class 40)	535655	July 11, 2020
14.	AMRELI STEELS MAXIMA (in class 40)	535666	July 11, 2020
15.	AMRELI STEELS XTREME (in class 40)	535667	June 18, 2020
16.	AMRELI STEELS ULTIMA (in class 40)	535602	June 18, 2020
17.	AMRELI (in class 45)	535660	July 11, 2020

5.5 On the other hand the Respondents have adopted the trade name AR AMRELI BUILDERS & ASSOCIATES (PRIVATE) LIMITED and/or AMRELI BUILDERS & ASSOCIATES without any trademark or copyright registrations with the IPO.

Company Registration with the Securities & Exchange Commission of Pakistan (SECP)

5.6 The Complainant is a Public Limited company duly registered with SECP on December 23, 1984 as AMRELI STEELS LIMITED, having registration No. 0012534.

5.7 The Respondent No. 1 is a Private Limited company registered with the Registrar of Companies, SECP on May 30, 2022 under the name and style of AR AMRELI BUILDERS & ASSOCIATES (PRIVATE) LIMITED, vide registration No. 0203055. At the time of registration of company, the Respondent Nos. 4&5 were the subscribers/directors of Respondent No. 1, whereas the Respondent No. 3 was Chairman of M/s AR Amreli Builders & Associates (Pvt.) Ltd.

5.8 Furthermore, it is also pertinent to mention here that the Complainant had filed a complaint with the SECP about the adoption of a deceptively similar name used by the Respondent No. 1 and requested to change its name, which was closed by the SECP on August 09, 2023.

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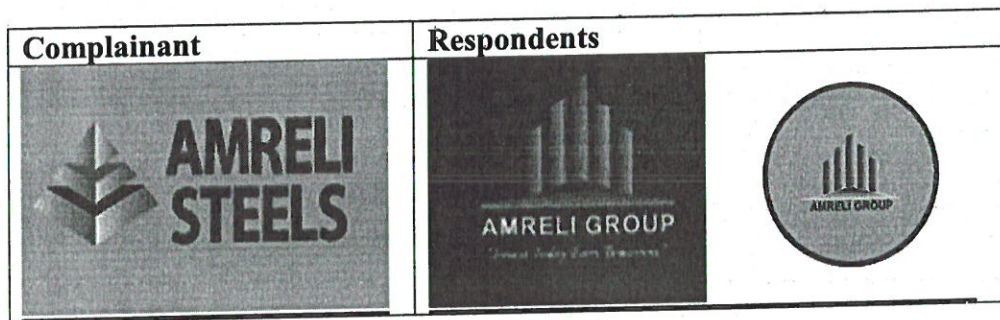
5.9 The company registration office, Islamabad closed the said complaint vide letter dated August 09, 2023 and stated that;

“Accordingly, the application for reservation of company name ‘AR AMRELI BUILDERS & ASSOCIATES (PRIVATE) LIMITED’ was examined in light of the relevant provisions of the Act and Regulations regarding prohibited words. Since, word Amreli is not a non-dictionary word. Rather, Amreli is a city and municipality in Amreli District in India state of Gujarat. Further the applicant justified for using word Amreli in company name as the forefathers of directors belonged to Amreli that’s why they intended to use it in company name. Moreover, prefix alphabet A&R representing initials of directors’ names as Ali and Ramzan differentiates the proposed name from already registered companies with the word Amreli”

5.10 The Complainant again filed an appeal on September 08, 2023, under section 480 of Companies Act, 2017 against the letter/order dated August 9, 2023 issued by the Additional Joint Registrar of Companies. The Registrar of Companies, vide order dated December 22, 2023, set aside the impugned order, dated August 09, 2023, and directed to initiate necessary action under section 11 of the Companies Act for change of name of the Respondent company.

Logo Design and Trade Name:

5.11 The logo design and the trade name used by both the Complainant and the Respondents are provided below:



5.12 As mentioned in Para 2.15 ibid, the Respondent No. 1 had also adopted an identical logo

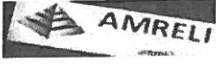



in terms of color, graphic, design, font, and stylization to the Complainant’s logo

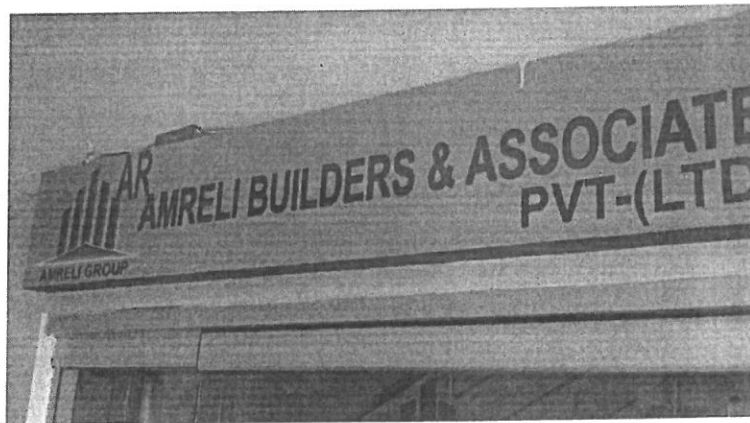


design. However, the Respondent No. 1 ceased the use of the identical logo after the receipt of a legal notice served by the Complainant on March 03, 2022. Therefore, the Complainant, being perturbed and deeply aggrieved by the blatant violation of its exclusive proprietary rights, served the Respondent No. 1 a Legal Notice dated 3 March 2022. Pursuant to the receipt of the Notice, the Respondent No.1 ceased the use of the identical pyramid logo and adopted a deceptively similar logo design. However, the said Respondent continued to use the mark **AMRELI** for its business and in fact started specifically referring to itself as **“AMRELI GROUP”**.

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5.13 The Complainant also alleged that the Respondent No. 1 had fraudently adopted an identical logo  in terms of color, graphic, design, front and stylization to the Complainant's registered trademark and artistic 

5.14 The Enquiry Committee visited premises of the Respondents and observed a billboard on the top of the main entrance of the building, which displayed the name & logo of M/s AR Amreli Builders & Associates (Pvt.) Ltd (Respondent No. 1). Image of main billboard is depicted below:



5.15 To collect further information and material, the Enquiry Committee attempted to enter the premises of Respondent No. 1, however, at that time, it was found closed. The Enquiry Committee took a picture of the main reception area of the office, which is depicted below:



5.16 From the bare perusal of the images above, it can be observed that a unique logo design and the word "AMRELI" in conjunction with other phrases have been used extensively on the main display areas of the premises. In addition to the above, the trade name "AMREELI" has also been used on the website of Respondent No. 1. However, the Enquiry Committee did not find any evidence of the use of the trade name/trademark "AMRELI" by the Respondent No. 2 as alleged in the complaint. The Complainant has

only submitted a copy of a post circulated on Zameen.com, purportedly advertised by M/s Amreli Builders & Associates (Respondent No. 2). The Enquiry Committee could not find any evidence of the use of the alleged trademark/tradename by Respondent No. 2.

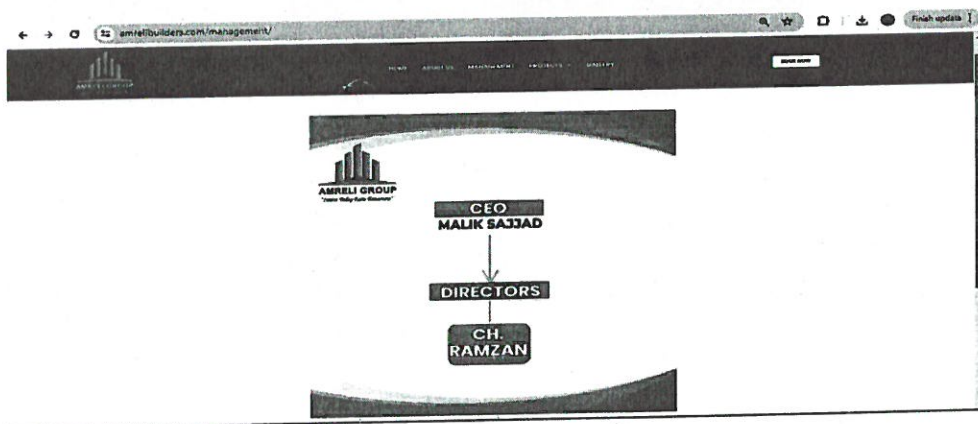
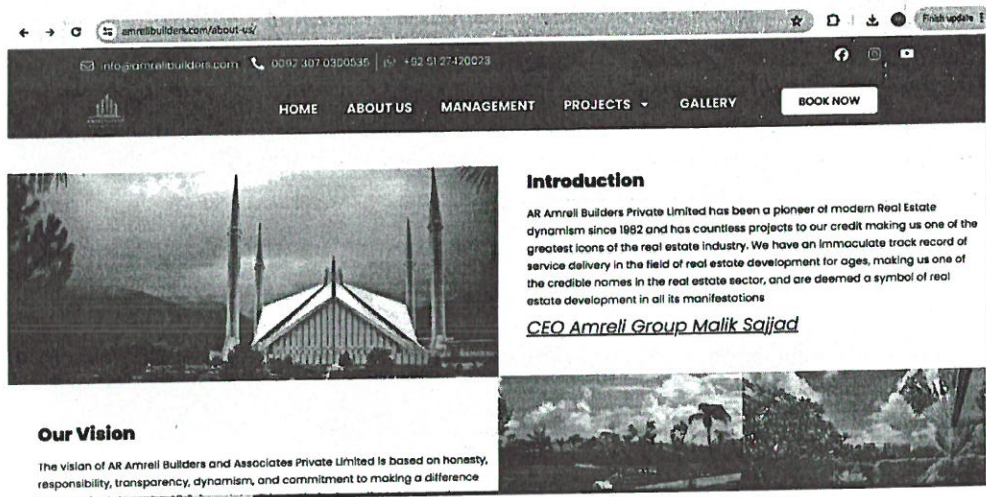
5.17 In light of the submissions made by the Complainant and the Respondents, the Enquiry Committee will analyze whether the provisions of Section 10 have been, *prima facie*, violated by the Respondents or not.

I. Whether the conduct of the Respondents pertains to the fraudulent use of another's trademark, firm name or product labelling or packaging, prima facie, in violation of Section 10 (2)(d) of the Act.

5.18 The matter in hand is of deceptive marketing practices by fraudulent use of registered trademark/trade name by the Respondents. It need no emphasis that the Complainant is a very famous company among the general public for its steel and other allied products.

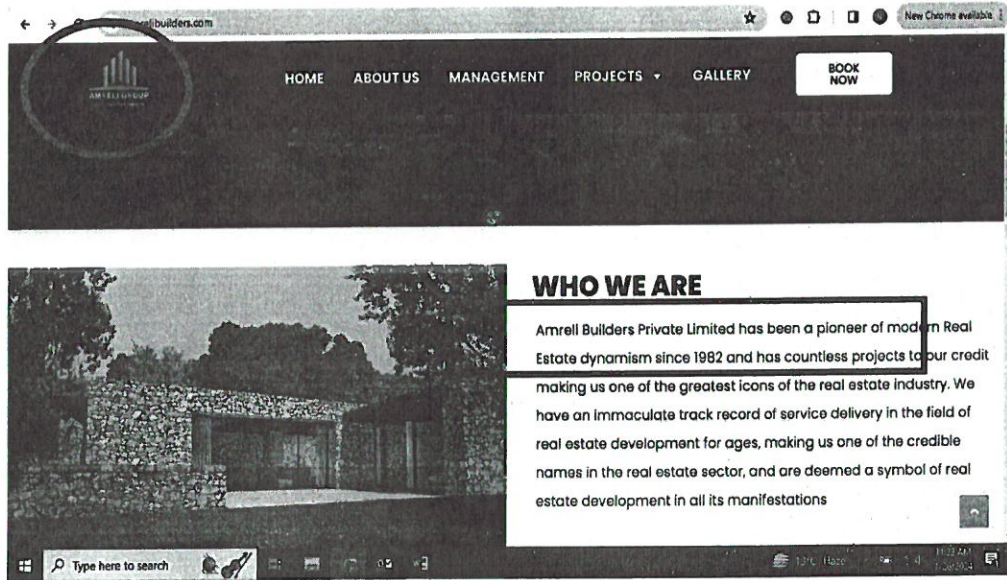
5.19 From the material and evidence presented by the Complainant along with its complaint there appears to be no doubt in our minds that it is the registered owner of trademarks purportedly used by the Respondents.

5.20 The website images of the Respondents are given below:



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- 5.21 From the bare perusal of the website images , it makes clear that the registered trademark/trade name of the Complainant has been used by the Respondents on their advertisement material and the use of identical trade name on the website can easily deceive an unwary ordinary consumer viewing the website that the products/services advertised are that of the Complainant. However, it is relevant to point out that the Complainant never licensed or leased out its respective trademark/trade name to any of the Respondents and never authorized the Respondents to use its registered trademark/trade name while advertising the products/services. Therefore, *prima facie*, the Respondents did not have any permission or authorization from the Complainant to use its registered trademark/trade name.
- 5.22 On the other hand the Respondents have denied the allegations of the Complainant and submitted that they are doing their business privately under Sole Proprietorship, and there is no provision under this law to file a complaint against a private person having no copyright or trademark. Moreover, the Respondents belong to the village (**Amreli**) in India near Karachi, so they are using their native town name and there is no copyright or trademark infringement because this name is not specific and it is for all the residents who belong to this area. However, the Respondents have failed to provide any documents to justify their claim regarding their belongingness to village Amreli.
- 5.23 In light of the appended trademark registration certificates and the submissions made in para 5.3 to 5.5 above, it appears that the Complainant has got registrations in class 36 and 37, which pertains to land & property developments and construction of buildings, from IPO while the Respondents have got no registration at all. In the absence of any record of proprietary rights in the name of the Respondents, the proprietary rights in the instant matter only lie with the Complainant undisputedly pertaining to the trademark/trade name "AMRELI".
- 5.24 It is also important to mention here that during the pendency of the instant matter with the IPT, Respondent No. 3 immediately registered a private limited company with the name of M/s AR Amreli Builders & Associates (Pvt.) Limited (Respondent No. 1) with the SECP. This proves the intentions of Respondents to free ride on the Complainant's goodwill.
- 5.25 From the facts discussed above, we are also conscious of the fact that the Respondents were using the AMRELI trademark on their billboards, brochures, website and other marketing material with an aim to get the business on the AMRELI trademark/trade name which is evident from the website excerpt given below:



5.26 From the image above, it has been observed that Respondents referring to themselves as part of 'AMRELI GROUP' and also portrayed themselves as a pioneer modern real estate dynamism since 1982, whereas the Respondent No. 1 was registered in May 2022 as private limited company with the SECP. On the other hand the Complainant is a part of Amreli Group and the word 'AMRELI' is singularly associated with the Complainant which is a pioneer of Pakistan's steel industry.

5.27 As mentioned above in Para 2.16 *ibid*, a suit for injunction was also filed by the Complainant with the Intellectual Property Tribunal (IPT). The Learned IPT, on September 19, 2022, has granted a temporary injunction, in which the Respondents were restrained from using/infringing the registered trademark of the Complainant, i.e., "AMRELI", for six months or till disposal of the suit whichever is earlier. The Learned Court has also passed an order dated 12.06.2023 and granted a permanent injunction, thereby restraining the Respondents from the use of the mark AMRELI in any manner whatsoever.

5.28 From the above, it can be concluded that the Respondents have adopted an identical trademark/trade name as that of the Complainant's registered trademark/trade name with the intension to take benefit of the goodwill attached to 'AMRELI'. Although the Complainant is not directly engaged in development and construction of real estate projects, however, the steel products produced by the Complainant are commonly used in the building and construction projects and an ordinary consumer can easily be deceived by believing that the projects of the Respondents probably belongs to Complainant's. Therefore, the act of using the trademark/trade name of the Complainant by the Respondents on the website, billboards and other advertising material, *prima facie*, was without any authorization, intentional and dishonest, hence misleading in nature in violation of Section 10(2)(d) of the Act

II. Whether prima facie Respondents is involved in the distribution of false or misleading information to consumers including the distribution of information lacking a reasonable basis, related to the character, place of production, properties, and quality of goods in, prima facie, in violation of Section 10 (2) (b) of the Act.

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- 5.29 The unauthorized use of the Complainant's registered trademark/trade name "AMRELI", by the Respondents has a two-fold effect on the Complainant's Goodwill.
- 5.30 First, the sale and marketing of lookalikes have the capability to harm the business interest of the Complainant. Second, the same comes into effect after misleading information has been disseminated to the customer, leading to generating a wrong impression and potential for error in judgment.
- 5.31 The Complainant has not produced any evidence to show their building construction projects, however it got registrations from IPO in relevant field while Respondents have no registration at all. Even otherwise steel products are commonly used in the building and construction projects and ordinary consumer can easily be deceived by believing that the projects of the Respondents belongs to the Complainant.
- 5.32 The Commission, ***in the matter of Show Cause Notice issued to M/S Irshad Trading Corporation***, has declared that *"Our considered view for the purposes of Section 10(2)(b) of the Act, it is sufficient that information is being provided to the consumer which is capable of leading customer to believe that the goods available at the shop have an association, quality or endorsement which belongs or would belong to the goods associated with those of the Complainant, leading to errors of judgement and conduct"*.
- 5.33 It has been observed that the Respondents are using the mark 'AMRELI' for its business and specifically referencing itself as "Amreli Group" whereas, as per record, the Respondent No.1 is only a registered undertaking with the SECP and no other registered entity is operational under the umbrella of "Amreli Group", hence it can be established that Respondents are intentionally using the registered trademark of the Complainant to create confusion in the minds of ordinary consumer to believe that the products/services provided by the Respondents are actually belongs to the products/services of the Complainant.
- 5.34 In addition to the above, another false and/misleading information has been disseminated by Respondents through their official website; www.amrelibuilders.com wherein it has claimed that *'Amreli Builders Private Limited has been a pioneer of modern Real Estate dynamism since 1982'* whereas the Respondents were registered in year 2022 with the SECP, therefore the abovementioned claim of Respondents holds untrue, hence false in nature in violation of Section 10(2)(b) of the Act.
- 5.35 In light of the above, we are of the view that the Respondents have violated the provisions of Section 10(2)(b) of the Act by providing false and/or misleading information through its marketing campaign to the consumers with reference to the character, method or place of production (origin), properties, suitability for use or quality of goods.

III. Whether the conduct of the Respondents is capable of harming the business interest of other undertakings in, prima facie, violation of Section 10 (2(a)) of the Act?

- 5.36 The Complainant, in its complaint, has submitted that a fraudulent adoption of another's trademark is in clear contravention of the Act. In fact, the said adoption by the Respondents is to cause grave injury to the Complainant's established reputation in the market and to

grabe the general's public attention to create undue damage for its offerings. Hence the unauthorized and blatant use of the Complainant's trademark/trade name by the Respondents is in violation of Section 10 of the Act and clearly has the potential to further harm the business interest of the Complainant in violation of Section 10(2)(a) of the Act.

- 5.37 The Complainant relied upon the precedents laid down by the Commission that a mere potential harm to the business interests of the Complainant suffices to constitute a violation of the provision of Section 10(2)(a) of the Act (2022 CLD 1343).
- 5.38 However, the Hon'ble Supreme Court of Pakistan in its recent judgement, while deciding a Civil Appeals No. 444 & 445 of 2017, has held that "*On the contrary, the use of the words 'false or misleading information' in Section 10(2)(a) shows that the legislature has intended to retain the same meaning; for in common law both the terms false and misleading are used in injurious falsehood actions for a representation to be taken as 'misrepresentation'. Further, the use of pharse 'harming the business interests of another undertaking' in Section 10(2)(a) of the Act, and not in Section 10(2)(d), denotes that the said pharase has been used in the sense of causing espress and direct harm to the business interests of the Complainant undertaking as it is understood in an injurious falsehood action*".
- 5.39 In this regard, it seems, in the instant matter, that the Respondents made misrepresentation concerning its own products/services by fraudulent use of the Complainant's trademark/trade name to take advantage of the reputation (goodwill) of the products/services of the Complainant, not concerning the products/services of the Complainant to cause the express or direct harm to the business interests of the Complainant. Moreover, the Complainant via letter dated November 13, 2023, was asked to provide evidence for loosing business interest, but it has not provided any evidence of the express or direct harm caused by Respondents through fraudulent use of its trademark/trade name.
- 5.40 Therefore, it can be concluded that Respondents has not violated the provision of Section 10(2)(a) of the Act.

IV. Whether there is a spillover effect of the Respondent's conduct?

- 5.41 The products/services of Respondents are advertised on its official webpage and social media pages, including LinkedIn and Instagram, which are accessible across the globe. This also led the original owner of the trademark/trade name, i.e., the Complainant, to file a complaint under the Competition Law.
- 5.42 Therefore, the act of the Respondents is not contained within jurisdictional boundaries and has a spillover effect.

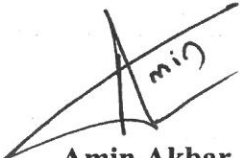
6. CONCLUSION AND RECOMMENDATIONS:

- 6.1 As per submissions of both the parties and the available evidence on record, it can be concluded that Respondent No. 1 is a private limited company incorporated on May 30, 2022. At the time of its registration, Respondents Nos. 4&5 were the subscribers and

directors of M/s AR Amreli Builders & Associates (Pvt.) Ltd. As per the Complaint, Mr. Malik Shahzad (Respondent No. 3) is the Chairman of M/s AR Amreli Builders & Associates (Pvt.) Ltd. This fact can be verified from the submissions of the Respondents and the duly signed power of attorney by Mr. Malik Shahzad & Mr. Ali Haider as executants.

- 6.2 Moreover, it appears that initially the Respondent No. 2 was operated as Sole Proprietor business under the control of Respondent No. 3, however, as mentioned in the complaint that during the course of proceedings with IPT, the Respondent No. 3, 4 & 5 incorporated a private limited company under the title AR AMREEL BUILDERS AND ASSOCIATES (PRIVATE) LIMITED (Respondent No. 1). The Respondent No. 3, 4 and 5 were liable to discharge their duties on behalf of the Respondent No. 1 being Chairman and Director of the company. As per the available evidence, the Respondents Nos. 1, 3, 4, & 5 have been found involved in an unauthorized use of the Complainant's registered trademark/trade name. However, the Complainant has failed to provide sufficient evidence of any unauthorized use of their trademark/trade name against Respondent No. 2.
- 6.3 Therefore, in view of the analysis drawn in this report, the Respondent No. 1, 3, 4 & 5 through the unauthorized use of the trademark/ trade name 'AMRELI', *prima facie*, were found to be fraudulently using the Complainant's registered trademark/trade name, in violation of Section 10 of the Act in terms of Section 10 (2) (d) of the Act.
- 6.4 The Respondent No. 1, 3, 4 & 5 are, through the unauthorized use of the Complainant's registered trademark/trade name 'AMRELI', *prima facie*, also found to be engaged in the dissemination of misleading information to consumers related to character, place of production, properties, and quality of goods, in violation of Section 10 of the Act, in terms of Section 10 (2) (b) of the Act.
- 6.5 Moreover, due to the non-provision of any evidence related to harming the business interest of the Complainant, the violation of Section 10 of the Act, in terms of Section 10 (2) (a) of the Act could not be determined against the Respondents.
- 6.6 Therefore, in light of the above mentioned findings, it is recommended that the Commission may consider initiation of proceedings against M/s. AR Amreli Builders & Associates (Private.) Limited, Mr. Malik Shahzad, Chairman of M/s AR Amreli Builders & Associates (Private) Limited, Mr. Ali Haider, Chief Executive Officer of M/s AR Amreli Builders & Associates (Private) Limited and Mr. Muhammad Ramzan, Director of M/s AR Amreli Builders & Associates (Private) Limited, under Section 30 of the Act for, *prima facie*, violation of Section 10 of the Act.


Riaz Hussain
Deputy Director (OFT)
(Enquiry Officer)


Amin Akbar
Assistant Director (OFT)
(Enquiry Officer)

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