

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 RECKITT BENCKISER
PAKISTAN LIMITED AGAINST COLGATE-PALMOLIVE FOR
DECEPTIVE MARKETING PRACTICES**

BY

**FAIZ-UR-REHMAN & UROOJ AZEEM AWAN
DATED: 20TH JANUARY, 2016**

A. BACKGROUND

1. M/s Reckitt Benckiser Pakistan Limited (hereinafter referred to as the “**Complainant**”) filed a Complaint with the Competition Commission of Pakistan (the “**Commission**”) against Colgate-Palmolive Pakistan Ltd (hereinafter referred to as the “**Respondent**”) for an alleged violation of Section 10 of the Competition Act 2010 (hereinafter the “**Act**”) pertaining to Deceptive Marketing Practices.
2. The Complainant in their application alleged that the Respondent is making the following claims on the outer packaging of their product ‘Max All Purpose Cleaner’ (“**Max APC**”):
 - i. “**99.9% Bacteria Free**”
 - ii. “**24 Hours Long Lasting Freshness**”

Apart from the above, it also has been mentioned on the packaging of the product that it protects against following:-

- a) **Cold and Flu**
- b) **Skin Infections**
- c) **Food Poisoning**

The disclaimer that appears on the packaging states the following:

“Based on laboratory testing with concentrate usage.”

3. The Complainant has further submitted that omitting to substantiate through supporting information, when making such serious consumer protection claims to the public for efficacy against life threatening diseases, is misleading and harmful to the public as well as harmful to the business interest of the undertaking and is in violation of Section 10 (1) of the Act in terms of Section 10 (2) (a) & (b) of the Act.
4. In addition, the Complainant submitted that the Respondent issued a trade letter which states that Max APC offers for a lesser price, a quantity of 50ml more than the Complainant’s product ‘Dettol Surface Cleaner’ (“**Dettol**”) (copy of the trade letter is attached as Annex-A). Hence, the trade letter is discrediting the properties and use of Dettol, and its contents are suggestive that Max APC is a more effective product than Dettol, without any result based testing to substantiate the same, contravening Section 10 (1) of the Act in terms of Section 10 (2) (a) & (c) of the Act.
5. Keeping in view the foregoing, the Competent Authority initiated an Enquiry in accordance with sub-section (2) of Section 37 of the Act by constituting an Enquiry Committee (**hereinafter the “Enquiry Committee”**). The Enquiry Committee was directed to conduct the enquiry on the issues raised in the complaint and to submit the enquiry report by giving findings and recommendations *inter alia* on the following:

Whether the allegations leveled in the complaint constitutes a prima facie violation of Section 10 of the Act?

B. COMPLAINT


6. The Complainant is a Company registered under the Companies Ordinance, 1984 and is principally engaged in the manufacturing and marketing of consumer household, antiseptic and pharmaceutical products including a major pest control brand “Mortein”. The details of various pest control products being manufactured and/or marketed by the Complainant under the brand name of “Mortein” are aerosols, vaporizers, coils and mats.
7. Mr. Burhan Khan, Marketing Director, filed a formal Complaint on behalf of the Complainant with the Commission, against the Respondent Company, for initiating action with regard to alleged violation of Section 10 of the Act.
8. In the Complaint, it was alleged that the Respondent, while advertising its products, is making false claims like “99.9 % Bacteria free, 24 hours long lasting freshness, protection against cold and flu, skin infection and food poisoning” etc. In this connection, it was further submitted by the Complainant that omitting to substantiate through further information, when making such serious consumer protection claims to the general public for efficacy against life threatening diseases, is misleading and harmful to the public and is obviously in violation of the Act.
9. The images of Respondent’s product packaging is depicted below:





10. Furthermore, it was alleged in the complaint that the Respondent, in the course of advertising its product Max APC, issued a trade letter, which states that Max APC offers more value in lesser price compared to Complainant's product namely Dettol. The Complainant submitted that the statement in the trade letter discredits the properties and use of Dettol by making a false and misleading comparison, thereby harming the interest of the Complainant, violating provisions of the Act.

11. Extract of the trade letter is reproduced below:




ٹیکس اے پی ای اور ڈیٹول سرفیس کلیئر کا موازنہ

| سائز/تھراپی | ٹیکس اے پی ای (دوپے) | ٹیکس اے پی ای (دوپے) | ٹیکس اے پی ای (دوپے) |
|--|----------------------|----------------------|----------------------|
| ٹیکس اے پی ای کی پہلی بوتلی 250ml ت (1 بوتلی سے 60 روپے) | 65 | 60 | 250ml |
| 60 روپے | 185/190 | 125 | 500ml |
| 145 روپے | 345 | 200 | 1000ml |

پروڈکٹ کی دستیابی کا چارٹ

| ٹیکس اے پی ای | پینڈر ٹریٹ | | | روڈر ٹریٹ | | | ٹیکس اے پی ای | | |
|---------------|------------|-------|-------|-----------|-------|-------|---------------|-------|-------|
| | 1000ml | 500ml | 250ml | 1000ml | 500ml | 250ml | 1000ml | 500ml | 250ml |
| پنڈر | 86 | 281 | 262 | 86 | 281 | 262 | 86 | 281 | 262 |
| پنڈر | 65 | 219 | 327 | 65 | 219 | 327 | 65 | 219 | 327 |
| ٹیکس اے پی ای | 37 | 97 | 48 | 37 | 97 | 48 | 37 | 97 | 48 |
| ٹیکس اے پی ای | 26 | 79 | 25 | 26 | 79 | 25 | 26 | 79 | 25 |
| ٹیکس اے پی ای | 4 | 13 | 8 | 4 | 13 | 8 | 4 | 13 | 8 |
| ٹیکس اے پی ای | 3 | 9 | 6 | 3 | 9 | 6 | 3 | 9 | 6 |
| ٹیکس اے پی ای | 17 | 35 | 49 | 17 | 35 | 49 | 17 | 35 | 49 |



ڈیٹول سرفیس کلیئر کی خامیاں کیا ہیں؟

ہرگز کوئی جگہ سے دوسری جگہ سے جانے پر ہرگز ایک یا تھراپ ہو جاتی ہے
 حیاتی لائف کم ہے، جلدی ایک یا تھراپ ہو جاتی ہے
 روزمرہ کے استعمال کیلئے مناسب ہے

ریٹیلرز ٹیکس اے پی ای کیوں رکھیں؟

یہ لگاتار یا سولو (CP) کی ایک نئی پروڈکٹ ہے۔ CP کی پروڈکٹس آپ نے ہمیشہ سراہا اور پسند کیا ہے
 ٹیکس اے پی ای ایک میٹری اور بہترین پروڈکٹ ہے، جبکہ اس کی قیمت مناسب ہے
 ٹیکس اے پی ای کی کارکردگی بہتر ہے، اس لیے یہ صارفین کے ہرچہ پیمائش کا باعث ہوگی
 اسے برآمدگی یا تھراپ سے ہرچہ رعایت حاصل ہے

ٹیکس اے پی ای کے مارچنٹ

| ٹیکس اے پی ای | ٹیکس اے پی ای (%) | ٹیکس اے پی ای (دوپے) | ٹیکس اے پی ای (دوپے) | ٹیکس اے پی ای (دوپے) |
|---------------|-------------------|----------------------|----------------------|----------------------|
| 6.43 | 12% | 53.57 | 60 | 250ml |
| 13.39 | 12% | 111.61 | 125 | 500ml |
| 21.43 | 12% | 178.57 | 200 | 1000ml |

C. RESPONDENT'S REPLY

12. In order to proceed further, the Complaint was forwarded to the Respondent for their comments. The Respondent's reply was received by the enquiry committee which comprised of the following main points:

- The Respondent submitted that the base formula of its product 'Max All Purpose Cleaner' (Max APC) was developed by Colgate's regional research laboratories (Global Technology Centers). This disinfecting/eliminating efficacy of microorganisms was measured by applying the product directly to an inanimate object (surface) to destroy or irreversibly inactivate most pathogenic microorganisms.
- The disinfecting efficacy of the product was mainly achieved through the formulation techniques. The anti-bacterial property of the product is due to the synergistic effect of the Active Ingredient (AI) and the surfactant blend of the formulation. The AI in Max APC is Glutaraldehyde. It is a known and proven antibacterial agent. Glutaraldehyde based disinfectants are effective against bacteria, fungi and viruses. The detergent mix of Max APC serves to disperse and remove soil and organic material from the surface allowing the AI to reach and destroy microbes within or beneath dirt. The detergent blend reduces the surface tension and increases the penetrating ability of water, thereby allowing more organic matter to be removed from the surface.
- Furthermore, the Respondent has submitted tests that were carried out in the laboratories of Colgate-Palmolive Pakistan as well as Colgate-Palmolive India. The test results are as follows:

ANTI-BACTERIAL EFFICACY REPORT 1 (India):

PRODUCT: All Purpose Cleaner (Base Formula used in Max All Purpose Cleaner)

COMPANY: Colgate-Palmolive Co.

TEST METHOD: Short Intervals Kill Time (SIKT)

TESTING LABORATORY: Global Technology Center, Colgate-Palmolive, Mumbai India

TEST DATE: 18th June 2008

PRINCIPLE: This product was mixed with bacterial inoculums for selected time intervals, after which the test system is neutralized and surviving bacteria are enumerated. Bacterial count reduction compared against the time zero control, are used as the basis of expressing activity.

TEST ORGANISMS USED: Escherichia Coli ATCC 8739, Klebsiella Pneumoniae PLS 113, Staphylococcus Warneni ATCC 17917, Staphylococcus Aureus ATCC 6538, Staphylococcus Enteridis ATCC 12228, Staphylococcus Marcessens, Corynebacterium Minitissimum ATCC 23348, Corynebacterium Xerosis ATCC 373

TEST RESULTS:

| Bacteria | APC 1 | APC 2 | APC 3 | APC 4 | APC 5 | APC 6 |
|-----------------|-------------|-------------|-------------|-------------|-------------|-------------|
| After 5 min | % Reduction | % Reduction | % Reduction | % Reduction | % Reduction | % Reduction |
| E. Coli | 100 | 100 | 100 | 100 | 100 | 100 |
| S. Aureus | 100 | 100 | 100 | 100 | 100 | 100 |
| S. Warneni | 100 | 100 | 100 | 100 | 100 | 100 |
| S. Marcesscens | 100 | 100 | 100 | 100 | 100 | 100 |
| S. Enteridis | 100 | 100 | 100 | 100 | 100 | 100 |
| C. Minitissimum | 100 | 100 | 100 | 100 | 100 | 100 |
| C. Xerosis | 100 | 100 | 100 | 100 | 100 | 100 |
| K. Pneumoniae | 100 | 100 | 100 | 100 | 100 | 100 |

CONCLUSION: Under laboratory conditions, APC formula is anti-bacterial with the potential of 100% elimination of above bacterial colonies.

- The Respondent has also submitted the two test results of the anti-bacterial efficacy reports that were carried out in Pakistan.

ANTI-BACTERIAL EFFICACY REPORT 2 (Pakistan):

PRODUCT: Max All Purpose Cleaner
COMPANY: Colgate-Palmolive (Pakistan) Ltd.
TEST METHOD: Short Intervals Kill Time (SIKT)
TESTING LABORATORY: Colgate-Palmolive Microbiology Laboratory Kotri, Pakistan
TEST DATE: 25th August 2012
PRINCIPLE: This product was mixed with bacterial inoculums for selected time intervals, after which the test system is neutralized and surviving bacteria are enumerated. Bacterial count reduction compared against the time zero control, are used as the basis of expressing activity.
TEST ORGANISMS USED: Escherichia Coli ATCC 8739, Staphylococcus Aureus ATCC 6538, Salmonella Typhi, Pseudomonas Aeruginosa

TEST RESULTS:

| Bacteria Species | % Reduction after 5 min |
|------------------|-------------------------|
| E. Coli | 100 |
| S. Aureus | 100 |
| S. Typhi | 100 |
| P. Aeruginosa | 100 |

CONCLUSION: Under laboratory conditions, Colgate-Palmolive Pakistan Max All Purpose Cleaner formula is anti-bacterial with the potential of 100% elimination of aforementioned microorganisms.

ANTI-BACTERIAL EFFICACY REPORT 3 (Pakistan):

PRODUCT: Max All Purpose Cleaner
COMPANY: Colgate-Palmolive (Pakistan) Ltd.
TEST METHOD: Short Intervals Kill Time (SIKT)
TESTING LABORATORY: Colgate-Palmolive Microbiology Laboratory Kotri, Pakistan
TEST DATE: 25th August 2014
PRINCIPLE: This product was mixed with bacterial inoculums for selected time intervals, after which the test system is neutralized and surviving bacteria are enumerated. Bacterial count reduction compared against the time zero control, are used as the basis of expressing activity.
TEST ORGANISMS USED: Klebsiella pneumonia ATCC 1003, Pseudomonas Aeruginosa, Staphylococcus Epidermis ATC12228, Staphylococcus Aureus ATCC 6538, Streptococcus Pyogenes ATCC 19615

TEST RESULTS:

| Bacteria Species | % Reduction after 5 min |
|-----------------------------------|-------------------------|
| Klebsiella Pneumonia ATCC 1003 | 100 |
| Staphylococcus Epidermis ATC12228 | 100 |
| Staphylococcus Aureus ATCC 6538 | 100 |
| Pseudomonas Aeruginosa | 100 |
| Streptococcus Pyogenes ATCC 19615 | 100 |

CONCLUSION: Under laboratory conditions, Colgate-Palmolive Pakistan Max All Purpose Cleaner formula is anti-bacterial with the potential of 100% elimination of aforementioned microorganisms.

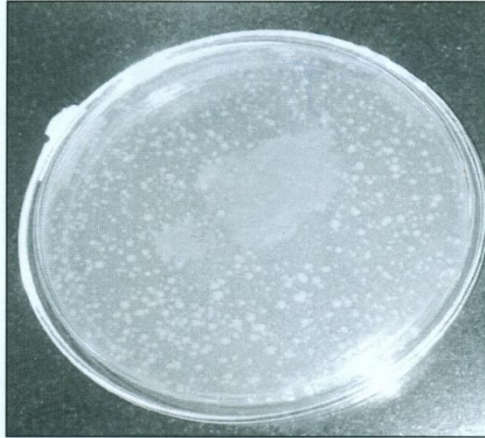


Figure 1: Microorganisms before cleaning with Max APC

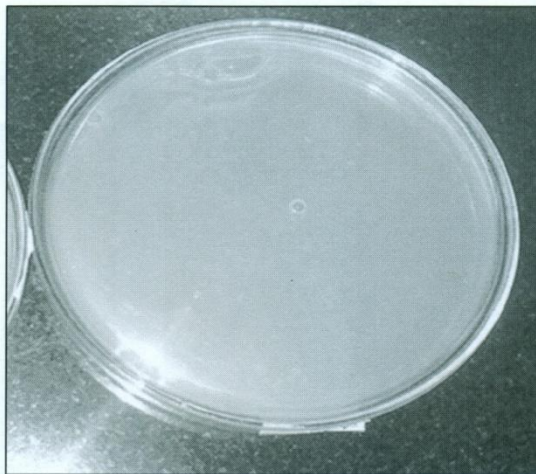


Figure 2: 100% elimination after cleaning with Max APC

Pictures of Petri-dishes with Microbial colonies

13. In reference to the allegation regarding issuance of a trade letter depicting a false and misleading comparison of Complainant's products with Max APC, the Respondent submitted that for the preparation of launch of its product MAX APC on Oct 14, 2014, it prepared and printed 200 copies of the manual for internal use for its distributor sales force. The objective of the manual was to educate the distributor sales force about the product, how to pitch the product to retailers and how to display the product on shelf.
14. The Respondent submitted that life of such manuals is not more than three to four weeks from the date of issue and is a confidential document only for internal use, not intended for circulation among consumer. It also stated that such a manual cannot be termed as a Trade Letter which are used to disseminate trade related information among retailers and wholesalers.

15. Moreover, it submitted that the internal manual states that in some attributes its product is better than the Complainant's product. Those attributes include fragrance as established by research as well as seal which prevents pilferage and tampering.

D. ANALYSIS/FINDINGS

16. As mentioned in para 5 , the mandate of this enquiry is as follows :

Whether the allegations levelled in the complaint constitute a prima facie violation of Section 10 of the Act?

17. It is important here to recall all the basic allegations leveled vide the Complaint against the Respondent Company namely Colgate-Palmolive Pakistan Ltd. The claims made by the Respondent, on the outer packaging of its product 'Max APC', with the words/terms exactly used in them are as under:

- i. "99.9% Bacteria Free"
- ii. "24 Hours Long Lasting Freshness"

Apart from the above, it also has been mentioned that it protects against:-

- a) Cold and Flu
- b) Skin Infections
- c) Food Poisoning

The disclaimer that appears on the packaging states the following:

"Based on laboratory testing with concentrate usage."

18. Besides, it was further alleged that omitting to substantiate through further information, when making such serious consumer protection claims to the general public for efficacy against life threatening diseases, is misleading and harmful to the public and business interest of the Complainant, in violation of the Section 10 (1) of the Act in terms of Section 10 (2) (a) & (b) of the Act.
19. The Complainant further submitted that the Respondent had been engaged in false and misleading comparison of Max APC and the Complainant's product Dettol, by depicting Max APC as a superior product in quantity and performance compared to Dettol in its trade letter, thereby violating Section 10 (1) of the Act in terms of Section 10 (2) (a) & (c) of the Act.
20. When the Respondent was confronted about the concern expressed by the Complainant, the Respondent, in its response, failed to substantiate their claims and submitted that the base formula of its product 'Max All Purpose Cleaner' (Max APC) was developed by Colgate's regional research laboratories (Global Technology Centers). This disinfecting/eliminating efficacy of microorganisms was measured by applying the product directly to an inanimate object (surface) to destroy or irreversibly inactivate most pathogenic microorganisms. It was also submitted that tests were carried out in the laboratories of Colgate-Palmolive Pakistan as well as Colgate-Palmolive India.
21. It was also argued by the Respondent that the disinfecting efficacy of the product was mainly achieved through the anti-bacterial property of the product which is due to the synergistic effect

of the Active Ingredient (AI) and the surfactant blend of the formulation. The AI in Max APC is Glutaraldehyde which is a known and proven antibacterial agent. Glutaraldehyde based disinfectants are effective against bacteria, fungi and viruses. The detergent mix of Max APC serves to disperse and remove soil and organic material from the surface allowing the AI to reach and destroy microbes within or beneath dirt. The detergent blend reduces the surface tension and increases the penetrating ability of water, hereby allowing more organic matter to be removed from the surface.

22. Wherein, it is pertinent to consider that Glutaraldehyde is a liquid disinfectant recommended for the purposes of high level disinfection of heat-sensitive endoscopic instruments. There are two fundamental issues important to the use of Glutaraldehyde, and both must be addressed by users; whether sterility is required for the instruments/equipment being processed, as distinct from high level disinfection; and whether there is adequate workplace protection available for people who are using Glutaraldehyde.¹
23. The response of the Respondent also includes further references that are used as evidence to justify the claims put forward in the marketing campaign of 'Max APC.' However, it is pertinent to mention that an ordinary consumer, while purchasing a well marketed product like Max APC, will be unaware of or least concerned about investigating itself about the kinds of laboratory tests that have been conducted to prove the claims portrayed on the product. At the first glance, consumers would be attracted to the product because of the claims that are displayed and would rely on the description labelled on the packaging. Therefore, it is crucial to qualify or include a disclaimer which fulfills the purpose of justifying the relevant claim.
24. Moreover, complete reliance on laboratory test results would result in a skewed decision regarding the claims made. For example, laboratory tests often do not include all germs and do not represent the imperfections of real-world usage. Ideal conditions of a laboratory are incomparable to that of household circumstances. An example of the hand-sanitizer industry can be taken into consideration. In an experiment, three popular hand-sanitizers were tested on 8th graders in America in normal conditions. The test results showed a 46-60% elimination of bacteria. Microbiologist Jason Tetro from the University of Michigan describes laboratory tests results as; *"it's the optimal environment for the hand sanitizer to work"*.²
25. Furthermore, the 8 sample strains of Bacteria used for testing efficacy of All-Purpose Cleaners, as has been extracted from within the test reports provided by the Respondent, are as under:
 - a. Escherichia Coli ATCC 8739
 - b. Klebsiella Pneumoniae ATCC 10031
 - c. Salmonella Cholerasuis ATCC 10708
 - d. Staphylococcus Aureus ATCC 6538
 - e. Staphylococcus Epidermis ATCC 12228

¹ Disinfection & Sterilization Guidelines, Queensland Health, Section 5: Thermal and Chemical Disinfection, Version 2: November 2008

²<http://ns.umich.edu/new/releases/1084-u-m-students-don-masks-and-wash-hands-for-influenza-study>

- f. Streptococcus Pyogenes ATCC 19615
- g. Pseudomonas Aeruginosa ATCC 15442
- h. Enterobacter Clocae ATCC 13047

Whereas, the sample of Bacterial strains used in tests conducted by the Respondent on 'Max APC' do not include Salmonella Cholerasuis ATCC 10708 and Enterobacter Clocae ATCC 13047. This means that efficacy of Max APC against these two strains of Bacteria has not been tested and is unknown, hence, using a claim such as "99.9% Bacteria Free" is unjustified and harms the consumers of the product. Moreover, such an exaggerated claim also harms the business interest of other undertakings engaged in the manufacturing of similar products, who do not indulge in exaggerated marketing practices, by diverting their potential customers to the Respondent's product, thereby inflicting financial losses to the other undertakings.

26. It is prudent to consider that the tests conducted to evaluate the efficacy of Max APC have been "Based on laboratory testing with concentrate usage." Whereas, the product being provided to the consumers for use does not contain a concentrate of the formulation, rather it is a more dilute and mild form of the formulation. The efficacy of the Active Agent, i.e. Glutaraldehyde, gets greatly reduced as the concentration of the Active Agent is decreased in the disinfectant solution, showing a linear relation between the concentration and the efficacy.
27. The claims made by the Respondent on the packaging of Max APC also consist of a claim i.e. "24 Hours Long Lasting Freshness". No substantial evidence has been supplied by the Respondent in the response which suggests or indicates that Max APC ensures 24 hours long lasting effect/freshness. Neither does the description provide any details on for how long will the surface remain clean and disinfected by the product and when does the consumer need to reapply Max APC on the surface to maintain sterility/disinfection.
28. A similar case was investigated by the Federal Trade Commission (FTC) in the United States of America in 2011 involving a vacuum cleaner manufacturer called Oreck. The manufacturer Oreck came under FTC scrutiny after they allegedly deceived consumers when making health claims about their leading products; the 'Oreck Halo' vacuum cleaner and the 'Oreck ProShield Plus' portable air cleaner. Oreck claimed that these products would kill germs, prevent flu, eliminate all airborne particles, kill up to 99.9% of common germs and pathogens like E. Coli and MRSA, and many more statements which were said to be backed by independent research by top scientists. According to an Oreck settlement report released by the Federal Trade Commission, Oreck exaggerated these claims and provided misleading information to consumers. Therefore, consumers who purchased either of these Oreck products were entitled to compensation through an Oreck class action lawsuit.
29. According to the FTC complaint, Oreck advertised these two products through infomercials, traditional television ads, print ads, in-store displays and ads online. During the 2009 holiday season, online ads pictured the Halo and the ProShield Plus side by side under the headline "Introducing the Oreck Flu Fighters, Help Reduce the Flu on Virtually any Surface and in the Air in Your Home" and claimed that the ProShield Plus "captures and destroys many air borne viruses like the flu." An infomercial for the Oreck Halo claimed, "The Oreck Halo has killed up to 99.9% of bacteria exposed to its light in one second or less," and that the vacuum's light

chamber “has been tested and shown to kill up to 99.9% of certain common germs, plus dangerous pathogens like E. Coli and MRSA”.

30. The FTC charged Oreck Corporation with making these allegedly false and deceptive claims about the Halo vacuum cleaner:

- The Halo and the ProShield Plus prevent or substantially reduce the risk of flu.
- The Halo and the ProShield Plus prevent or substantially reduce the risk of other illnesses or ailments caused by bacteria, viruses, molds, and allergens – such as the common cold, asthma, and allergy symptoms.
- The Halo eliminates all or almost all common germs and allergens found on the floors in users’ homes, and is scientifically proven to do so.
- The Halo’s ultraviolet light is effective against germs, bacteria, dust mites, mold, and viruses embedded in carpets.
- The ProShield Plus eliminates all or almost all airborne particles from a typical household room under normal living conditions, and is scientifically proven to do so.
- The complaint also alleged that Oreck provided deceptive advertisements to its franchised stores for their use in marketing the Halo and the ProShield Plus. According to the FTC, by doing so, Oreck provided the means and instrumentalities to its distributors to deceive consumers.

31. The print advertisement of Oreck is reproduced as follows:






When the light is on, germs are gone.

The Only Vacuum In the World That Can Kill Many Germs, Viruses, Bacteria and Dust Mite Eggs with UV-C Light.*

- > Tests have shown that floors in homes can have more germs per square inch than toilet seats! These potential health threats include E. coli, MRSA, rhinovirus and dust mites that are a leading trigger of allergy and asthma symptoms in children.
- > The Oreck Halo is the only vacuum with patented ultraviolet C (UV-C) light technology that can kill many of these germs, dust mite eggs, mold and flea eggs.
- > Oreck Halo uses the same revolutionary UV-C light that has been used for decades to purify drinking water...and can kill many of these potential health threats with out chemicals.
- > The patented Oreck Halo Light Chamber concentrates the power of the light down on to your carpets and floors and kills many of the exposed germs.
- > Oreck Halo has been tested and shown to kill more than 99.9% of certain common germs and more than 90% of dust mite eggs.
- > Oreck Halo features a unique HEPA 13 filter bag for maximum air filtration and home air quality.
- > Oreck Halo features on-board attachments for easy cleaning of draperies and upholstery.
- > 3-year vacuum warranty, 5-year warranty on the UV-C light bulb.



Kills



Viruses



Dust Mite Eggs



Flea Eggs



Bacteria



Mold

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32. The complaint also alleged that Oreck provided deceptive advertisements to its franchised stores for their use in marketing the Halo and the ProShield Plus. According to the FTC, by doing so, Oreck provided the means and instrumentalities to its distributors to deceive consumers. Under the terms of the administrative settlement, Oreck was barred from making any of the alleged deceptive claims it challenged in the complaint for any vacuum cleaner or any air cleaning product.

33. It is also prudent to consider the fact that any information disseminated to distributor sales force trickles down to the consumer through the distributor, wholesaler and retailer channel, either wholly or partially. Hence, even if a manual is prepared for internal use with the objective of educating the sales force on how to pitch the product, the pitch will find its way to the consumer, as the distributor will give the same pitch to the wholesaler, who in turn will pitch the same to the retailer and ultimately the consumer, respectively. If the same contains a comparison of the product with a competitor's product, whereby the comparison demeans the properties of the other without substantial evidence, has the potential of harming the business interest of the competitor

through distribution of false and misleading information as well as false or misleading comparison of the products.

E. RECCOMENDATION/CONCLUSION

34. Having examined the information collected through exchange of correspondence and material submitted by Complainant and Respondent during the enquiry, we are of the considered opinion that the Respondent has failed to substantiate its claims of 99.9% Bacteria free, 24 hour long lasting freshness, protection against cold, fever, skin infection and food poisoning. Thus, the Respondent in this way has prima facie entered into deceptive marketing practices, violating Section 10 (1) of the Act in terms of Section 10 (2) (a) & (b) of the Act.
35. Similarly, having examined the trade letter issued by the Respondent and in reference to para 33 above, the Respondent has prima facie violated Section 10 (1) of the Act in terms of Section 10 (2) (a) & (c) of the Act.
36. In view of the above, it may be concluded that the evidence provided by the Respondent lacks robust substantiation of the claims portrayed in the advertisement. It is pertinent to mention that serious health claims have been advertised and reliance on these claims may result in adverse effects on health and safety of the consumers. Therefore, a more vigorous and concrete scientific proof is required to justify such strong health claims.
37. The deceptive marketing practices have a direct impact on the public at large. It is in the interest of the general public that the undertakings should be stopped to advertise their products in an unfair and misleading manner and be encouraged to resort to the advertising practices which are transparent and give consumers/customers true and correct information. In light of the above mentioned findings, it is recommended that the Commission may consider initiating proceedings against Colgate-Palmolive Pakistan Limited under Section 30 of the Act.

Faiz-ur-Rehman
Assistant Director
(Enquiry Officer)

Urooj Azeem Awan
Management Executive
(Enquiry Officer)