

COMPETITION COMMISSION OF PAKISTAN

ENQUIRY REPORT

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

IN THE MATTER OF ENQUIRY CONDUCTED AGAINST ELECTRIC CABLE MANUFACTURERS FOR DECEPTIVE MARKETING PRACTICES

BY

Noman Laiq/ Marryum Pervaiz/ Faiz ur Rehman
Dated: 20/05/16

1. BACKGROUND:

1. This report concludes the enquiry initiated by the Competition Commission of Pakistan **(the 'Commission')** under Section 37(1) of the Competition Act, 2010 **(the 'Act')** pursuant to a Suo Motto action taken by the Commission for the alleged violation of Section 10 of the Act i.e; deceptive marketing practices.
2. It has been observed that different electric cable manufacturing companies **(hereinafter refer as 'Undertakings')** have adopted the practice of inserting cash/ cash coupons of various denominations in the packing of their electric wire cable bundle. However, the packing of the electric wire cable bundle and other promotional material neither contain any indication of such scheme nor reflects the availability of coupons and their value placed therein. The non disclosure of this additional benefit is deceptive as the price of the coupons are actually born by the consumers who are unaware about their placement. Whereas, the quality of electric cables are also being compromised through such deceptive marketing practice as the electric technicians prefer to purchase such cable wires which contains higher value of cash coupons instead of keeping their quality in mind. This also have an adverse effect of giving an unfair competitive edge to other undertaking offering higher value coupons without disclosure to the consumers who are paying for it.
3. Keeping in view the above, the Competent Authority, after the primary analysis, has initiated an enquiry in accordance with sub-section (1) of Section 37 of the Act, by appointing Mr. Noman Laiq, Director (OFT), Ms. Marryum Pervaiz, Deputy Director (OFT) and Mr. Faiz ur Rehman, Assistant Director (OFT) as the enquiry officer. The enquiry officers were mandated to undertake a fact finding enquiry and submit the report by giving their findings and recommendations *inter alia* on the following issue:

Whether the act of the undertakings is in, prima facie, violation of Section 10 of the Act (deceptive marketing practices) or not?

2. RESEARCH BY THE ENQUIRY OFFICERS:

4. In this enquiry various methods have been adopted by the enquiry officers to collect the information regarding the details of electric cable wire manufacturers. The methods adopted to gather the evidence / facts are as follows:

I. PRIMARY RESEARCH / EVIDENCE GATHERING METHODS

5. Primarily, a market survey was conducted by the enquiry officers in order to get the initial information about the undertakings manufacturing electric cables and placing cash coupon in their packaging without a proper disclosure. For this purpose inspection of the relevant markets of some major cities of Pakistan has been carried out and data related to the undertakings manufacturing electric cables with cash coupons has been sifted.
6. After having a sufficient material regarding the subject matter the enquiry officers then adopted the secondary method of research to collect the relevant information.

II. SECONDARY RESEARCH / EVIDENCE GATHERING METHODS

7. The enquiry officers have also conducted the desk research by searching online resources. Moreover, a letter has also been written to All Pakistan Cable & Conductor Manufacturer Association Karachi, in which they were requested to provide a list of the undertakings registered with them as a member.
8. After a detailed assessment, undertakings which were found repeatedly in different market segments were sorted. List of those undertakings found during the research is as under:
 - 1) A.G.E. Industries (Pvt.) Limited
 - 2) Pakistan Cables
 - 3) Pioneer Cables (Pvt.) Limited
 - 4) Atlas Cables (Pvt.) Limited
 - 5) H.M Ismail and Company
 - 6) Newage Cables (Pvt.) Limited
 - 7) Mutahir Metal Works
 - 8) Allied Industries Hub (Pvt.) Limited
 - 9) Dawn Cables
 - 10) G.M. Cables and pipes
 - 11) Fast Cables
 - 12) Eagle Cables
 - 13) Rana Cable Network
 - 14) Hitech English Cables
 - 15) Pak Muzaffar Cable
 - 16) Alfa Plus Wire Cable
 - 17) Hi Ace English Cable
 - 18) Gold Royal Cable
 - 19) Zafar Cable
 - 20) Nation Cable
 - 21) Puller Cable
 - 22) Welcome Cables
 - 23) Dewan Cables
 - 24) E-Flux Cables
 - 25) Hero Cable
 - 26) Falcon Cables
 - 27) Lear Cables
 - 28) Rana Cables

3. CORRESPONDENCE WITH THE UNDERTAKINGS:

9. Letters for the provision of information were sent to all the undertakings mentioned in paragraph 8 above. The undertakings were asked to provide clear and comprehensive answers to the following questions which were designed to determine the facts regarding the matter.
 - a) How many types of cables along with its different wire power have been manufactured by your undertaking?
 - b) The price charged for each type of cable along with different wire power (Submit in tabular form).

- c) Whether the packaging of your cable wire bundle contains any cash coupon or any other promotional material?
- d) If yes, the amount of cash coupons in rupees offered in each cable wire bundle (Submit the detail in tabular form for each type of cable along with its wire power).
- e) Sample of the cash coupons/ promotional material offered by you.
- f) Whether the packaging of cable wire disclosed the fact that the cash coupon/ promotional material is present in it?
- g) Sample of the packaging of every type of wire cable.

4. REPLIES BY THE UNDERTAKINGS:

10. For the purpose of clarity and comprehensiveness, reply submitted by each of the undertaking is elaborated under their respective head discussed as under:

4.1 A.G.E. INDUSTRIES:

11. A letter for the provision of information was written to the undertaking dated: 30-07-2015. In response to the letter a reply has been received by the undertaking dated: 03-08-2015. In the reply the undertaking presented the list of all their cables along with prices. They submitted that there is no promotional material distributed by the them. It was also submitted that the undertaking is not engaged in any schemes involving cash coupons present in their packaging. No sample of packaging was provided by the undertaking.



4.2 PAKISTAN CABLES:

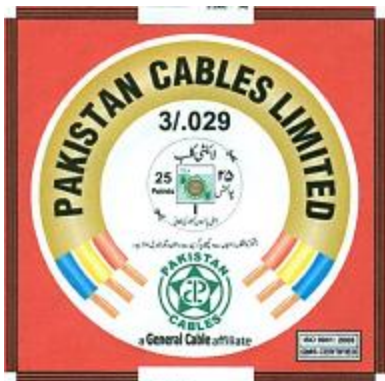
12. Pakistan Cables was set up in 1953 and claims to be the market leader in Pakistan. Pakistan Cables is affiliated with General Cables, a Fortune 500 company, and asserts to be the only cable producer in Pakistan that is affiliated with an international cable manufacturing. Along with production of wires and cables, Pakistan cables also produces aluminum sections, copper rods and PVC Compounds for electrical insulation and general use

13. Letter for the provision of information was written to the undertaking dated: 30-07-2015. In response to the letter a reply has been received by the undertaking dated: 12-08-2015. According to the submissions, the undertaking has categorized its cables in two groups:

- i) **General Wiring Cables:** This type is manufactured for domestic use.
- ii) **Industrial/Power Cables:** These cables are low voltage and high voltage cables. They are custom made cables manufactured for the purpose of electrification of large and small scale industrial units and various other projects.

14. The reply had attached the price list of the General Wiring Cables whereas no price list was provided for the Industrial/Power cables as they are made to order. It was further submitted that as far as promotional offers were concerned, they were available only for the category of General Wiring Single Core cables packed in boxes containing 90 meters coil per pack. It was further explained that each product is available in five different colors i.e. red, black, green/yellow, yellow, and blue. The printouts of the boxes were attached in the reply received from the undertaking.

15. The reply also contained information regarding their promotional offers. The undertaking has initiated a Loyalty Club Scheme for all the purchasers of the General Wiring Single Core cables. The top of each box has a Loyalty Club coupon printed on it for which the customers receive some points known as the loyalty points. Each product has different points associated with them. Different points are then allocated to different prizes. The purchasers are required to accumulate certain specified points which can be submitted as a coupon to the seller to retrieve the prize offered against those number of points. This information is also available on the back of the products' boxes. This information is printed on brochures as well.



4.3 PIONEER CABLES:

16. Letter for the provision of information was written to the undertaking dated: 30-07-2015. In response to the letter a reply has been received by the undertaking dated: 10-08-2015.

17. The undertaking in its reply has submitted that they are present in the industry for over twenty five years. Pioneer Cables is a manufacturer of a wide range of products that includes but is not limited to overhead conductors, AAC & ACSR, bare copper conductors, general wiring PVC insulated, automobile cables, etc.



18. Pioneer cable presented its reply along with the list of its products against their prices specifying cable types and their sizes. It was stated that the company does not offer any cash coupons or any of form of gifts for the promotion of its products. It was further presented that no other form of promotion material is used by company either. Therefore, no samples of coupons or promotional materials were provided. There was no mention of packaging material and neither were the samples produced.

4.4 ATLAS CABLES:

19. Letter for the provision of information was written to the undertaking dated: 30-07-2015. In response to the letter a reply has been received by the undertaking dated: 11-08-2015.

20. In response to the questions posed by the enquiry officers, it was specified that the undertaking is involved in manufacturing of ACC and ACSR conductors that are aluminum conductors. According to them the undertaking does not advertise its products to whole sale and retail customers as the products are not suitable for the use of domestic consumers.



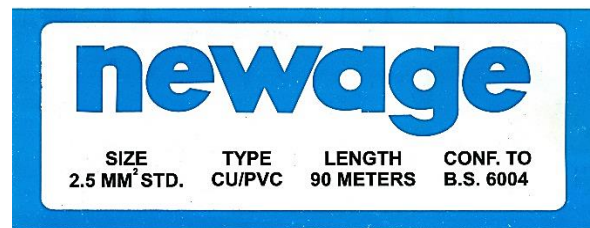
21. It was highlighted that DISCOS are the main consumers of their products and the transaction takes places through the procedure of competitive bidding. The company participates in this process if their products meet the criteria specified by the tender following which an effort is made to present the most competitive bid against all the participants in order to attain the contract. Thus the product specification and its price then depends on the requirements and arrangements established in the tender bid. Therefore, there is no specific product or price list defining the company's product portfolio. Neither is the company able to exercise the use of cash coupons or any other promotional material to market its products.

4.5 H.M ISMAIL AND COMPANY:

22. A letter for the provision of information was written to the undertaking dated: 30-07-2015. No reply has been received in the given time period therefore another letter as reminder was issued to them dated: 17-11-15. Despite of providing a sufficient time period, the undertaking failed to respond on any query raised by the enquiry officers.

4.6 NEWAGE CABLES:

23. Newage Group manufactures cables, conductors, metals, plastics and chemicals that was established in 1956 in Pakistan. Newage Cables is a manufacturer of cables and conductors. According to them they are accredited with ISO 9000 certification and asserts that it is the largest cable manufacturer of Pakistan. The product range of this company includes house wiring, copper rod, aluminum rod, galvanized steel, paper covered copper strips, polypropylene bags, etc.



24. Letter for the provision of information was written to the undertaking dated: 30-07-2015. In response to the letter a reply has been received by the undertaking dated: 04-08-2015.

25. Newage Cables also presented a list of different sizes and categories of cables produced by them. The undertaking alleged that there are no cash coupons present in the packaging of any of their products. It was also alleged that there is no other form of promotional material used by them. They provided a list of different sizes of copper conductors and cables based on three specifications i.e. BSS 6004 (available in 9 sizes), BSS 2004 (available in 8 sizes), and flexible cable (available in 6 sizes). Packaging samples of 9 BSS 6004 specification copper conductors were attached.

4.7 MUTAHIR METAL WORKS:

26. Letter for the provision of information was written to the undertaking dated: 30-07-2015. In response to the letter a reply has been received by the undertaking dated: 03-08-2015.



MUTAHIR METAL WORKS (PVT) Ltd.

27. In the reply it was submitted that the undertaking manufactures only industrial goods i.e. Cables and Conductors that are acquired by WAPDA and other DISCOS of the country. For the process of procurement, tenders have to be submitted. Through the process of bidding, the contract is awarded to the party that presents the lowest bid and thus the pricing of the cables is done accordingly. Therefore, it was submitted, there are no coupons or promotional materials for their industrial supplies. Samples of the packaging were not provided by the undertaking.

4.8 ALLIED INDUSTRIES HUB PRIVATE LIMITED:

28. The company is a foundation of Allied Group which was established in the year 1981. A letter for the provision of information was written to the undertaking dated: 30-07-2015. No reply has been received in the given time period therefore another letter as reminder was issued to them dated: 17-11-15. The undertaking has submitted its reply on 24-11-2015 along with a list of various types of cables produced by the company. It was further submitted that customized cable wires are also manufactured by the undertaking. A price list of the products was also attached for their various sizes and specifications, however, it was highlighted that the price of the products are based on Copper LME price and value of dollars which results in frequent fluctuation of undertaking's products.



ALLIED INDUSTRIES HUB (PVT) LTD.

4/1, Arkay Square, Shahrah-e-Liaquat, P.O. Box No. 4310, Karachi-74000, Pakistan.
Tel: 32420920-32428948 Fax: 092-21-32420791 E-mail: alliedgroup2000@yahoo.com



29. They alleged that they are not offering any kind of promotional material such as coupons. It was further submitted that the packaging of the products is based on customer's demands which is usually provided in bundles or is based on customer's specification.

4.9 DAWN CABLES:

30. A letter for the provision of information was written to the undertaking dated: 30-07-2015. The undertaking in response requested for an extension in time for the submission of reply dated: 11-08-2015. The undersigned officers through letter dated; 11-08-2015 have given extension to the undertaking for filing the reply. The undertaking has submitted its reply on 19-08-2015.

31. The reply received by Dawn Cables contained a list of different type of cables representing their portfolio of products along with prices. The company claimed that they do not have cash coupons present in their products apart from one category i.e. bundle of wire cable size 3/029. This category contains a cash coupon of Rs. 20 on a random basis. The reply had the sample of the cash coupon attached. The company stated that there is no disclosure regarding the presence of a coupon on the packaging of their products or in any other promotional material. Company uses printed plastic packing material for the packaging of two of their product categories i.e. wire cable sizes 3/029 and 7/029. However, for other categories white cotton cloth is used along with Label Card.



4.10 G.M. CABLES AND PIPES:

32. Founded in 1975, G.M. Cables International is a manufacturer of electrical cables mainly for domestic uses. However, they have recently ventured into production of unarmoured and armoured power cables.

33. A letter for the provision of information was written to the undertaking dated: 30-07-2015. The undertaking in response has submitted its reply on 11-08-2015.

34. The reply received by them had a detailed list of different types, sizes, and wire power of cables attached. Prices were also provided for all their varying categories. It was claimed that no cash coupons are given by the company.

35. It was further submitted that no promotional material is used by them. Since no cash coupons are offered, no details or samples were provided pertaining to the cash coupons. However, packaging sample of one of its products was enclosed with the reply received.



4.11 FAST CABLES:

36. Fast Cables was established in 1985 and is a manufacturer of general wiring cables, industrial cables, instrumentation cables, and telecommunication cables. The company claims that due to its superior quality, it is one of the most reliable brands in the Cable Industry of Pakistan and has become the choice of **leading electrical consultants, engineers and architects** in the country.
37. A letter for the provision of information was written to the undertaking dated: 30-07-2015. The undertaking in response requested for an extension in time for the submission of reply dated: 08-08-2015. The undersigned officers through letter dated: 11-08-2015 have given extension to the undertaking for filing the reply. Fast cables has submitted its reply on 26-08-2015.
38. The undertaking has provided list of its product portfolio however it was stated that the price list is issued only for one of its products i.e. General Wiring Cables. For the remaining products it was submitted that the price varies according to the variation in specification of the final product. It was alleged that Fast Cables is not involved in use of any cash coupons in its promotional material.



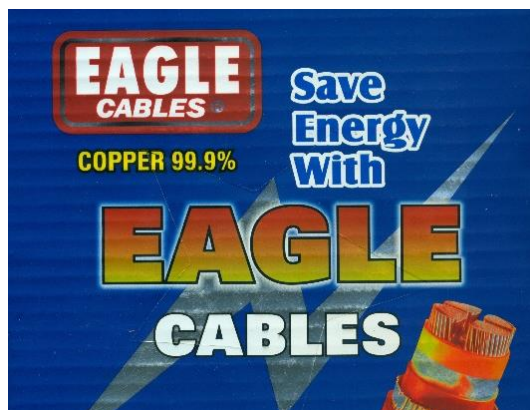
39. It was further alleged that they have mostly been involved in direct marketing i.e. door-to-door sales promotion by their sales and marketing staff. It was submitted that in order to solve the issue of counterfeit sales, the undertaking has developed an electrical verification service. The samples of General Wiring Cables was attached where as it was stated that wooden drums are used for packaging of bigger size and longer length cables.

4.12 EAGLE CABLES (PVT) LTD:

40. A letter for the provision of information was written to the undertaking dated: 30-07-2015. No reply has been received in the given time period therefore another letter as reminder was issued to them dated: 17-11-15. The undertaking in response has submitted its reply on 19-11-2015. According to the submissions, the undertaking is a manufacturer of following four types of cables:

1. Single Core Cables (House Wiring)
2. Multicore Cables (For Industrial Use)
3. Telephone Pair Cables
4. Coaxial Cables

41. The undertaking has also submitted the price list in the reply. They stated that their packaging does not contain any cash coupons. For ease of reference they have provided the packaging samples of their products.



4.13 RANA CABLE NETWORK:

42. A letter for the provision of information was written to the undertaking dated: 30-07-2015. No reply has been received in the given time period therefore another letter as reminder was issued to them dated: 17-11-15. Despite of providing a sufficient time period, the undertaking failed to respond on any query raised by the enquiry officers.

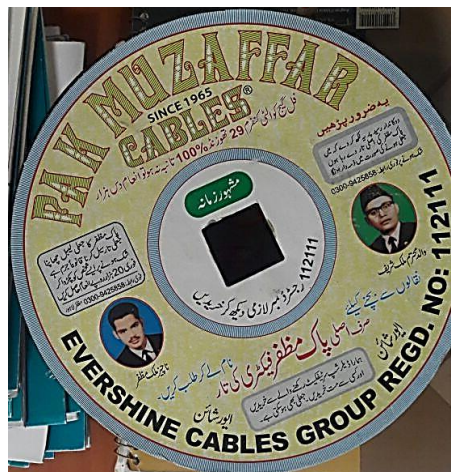
4.14 HI-TECH ENGLISH CABLE:

43. A letter for the provision of information was written to the undertaking dated: 07-04-2016. No reply has been received in the given time period therefore another letter as reminder was issued to them dated: 26-04-16. Despite of providing a sufficient time period, the undertaking failed to respond on any query raised by the enquiry officers.



4.15 PAK MUZAFFAR CABLES:

44. A letter for the provision of information was written to the undertaking dated: 04-04-2016. No reply has been received in the given time period therefore another letter as reminder was issued to them dated: 26-04-16. Despite of providing a sufficient time period, the undertaking failed to respond on any query raised by the enquiry officers.



4.16 ALFA PLUS WIRE & CABLES:

45. A letter for the provision of information was written to the undertaking dated: 05-04-2016. Subsequent to the letter the undertaking requested for an extension in time for the submission of reply and the same was granted to them. The undertaking has submitted its reply on 20-04-2016. They alleged that they have been involved in using coupons as a promotion strategy as per prevalent market practices. However, the undertaking did not intend to violate the law. Therefore, it was further stated that they have already changed the packaging of their products which contains the disclosure of presence of coupons. Samples of the new packaging were shared.



46. Furthermore, they submitted the list of 7 types of cables it deals with along with their prices. It was presented that cable size (inches) 1/0.044, 3/0.029, and 7/0.036 contained cash coupons. The cash coupons are present in the range of Rs. 30 – Rs. 70. A sample of cash coupons was also submitted. They further submitted that the product will be available in the market in the new packaging in the near future.

47. The undertaking also requested for the withdrawal of the case and ensured their full compliance with the directions of the Commission in future.

4.17 HI-ACE ENGLISH CABLES:

48. A letter for the provision of information was written to the undertaking dated: 04-04-2016. No reply has been received within the given time period therefore another letter as a reminder was sent to the undertaking dated: 26-04-2016. The undertaking in response requested for an extension in time for the submission of reply dated: 03-05-2016. After the expiry of given time period the undertaking was reminded again through

telephone to submit the reply. However, they failed to reply on the queries of the enquiry officer.



4.18 GOLD ROYAL CABLES:

49. A letter for the provision of information was written to the undertaking dated: 26-04-2016. No reply has been received in the given time period therefore another letter as reminder was issued to them dated: 26-05-2016. Despite of providing a sufficient time period, the undertaking failed to respond on any query raised by the enquiry officers.



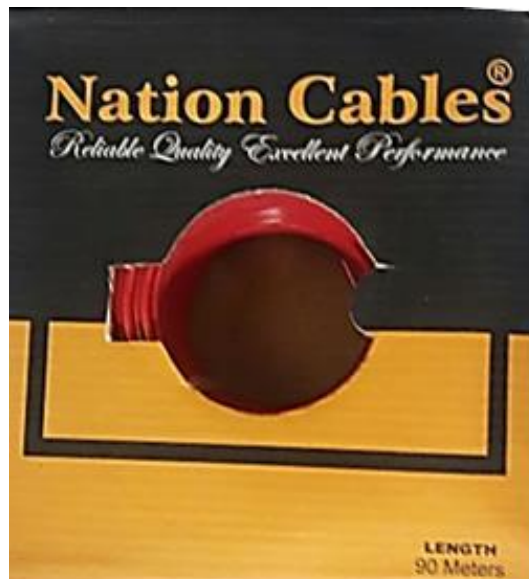
4.19 ZAFAR CABLES:

50. A letter for the provision of information was written to the undertaking dated: 26-04-2016. No reply has been received in the given time period therefore another letter as reminder was issued to them dated: 26-05-2016. Despite of providing a sufficient time period, the undertaking failed to respond on any query raised by the enquiry officers.



4.20 NATION CABLES:

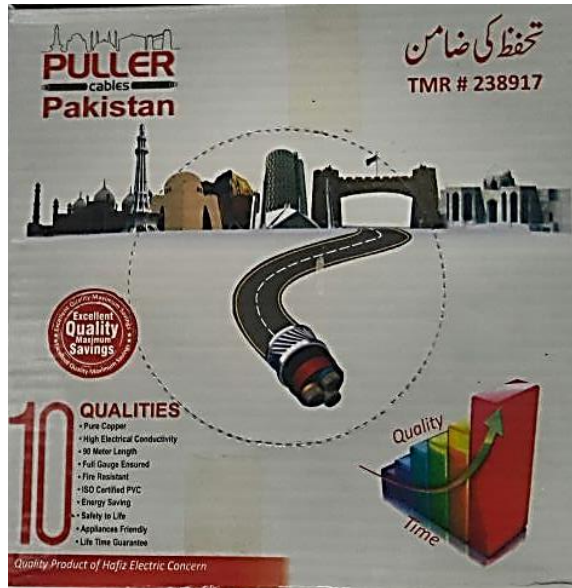
51. A letter for the provision of information was written to the undertaking dated: 26-04-2016. No reply has been received in the given time period therefore another letter as reminder was issued to them dated: 26-05-2016. Despite of providing a sufficient time period, the undertaking failed to respond on any query raised by the enquiry officers.



4.21 PULLER CABLES:

52. A letter for the provision of information was written to the undertaking dated: 30-07-2015. The undertaking in response has submitted its reply on 27-04-2016.

53. The undertaking has submitted that there was no intention of violating the law. They further requested that the Commission may withdraw the proceedings against them.



4.22 WELCOME CABLES:

54. A letter for the provision of information was written to the undertaking dated: 04-04-2016. No reply has been received within the given time period therefore another letter as a reminder was sent to the undertaking dated: 26-04-2016. The undertaking in response to the reminder has requested for an extension in time for the submission of reply dated: 30-04-2016. The undersigned officers through letter dated: 03-05-2016 have given extension to the undertaking for filing the reply. The undertaking has submitted its reply on 09-05-2016.

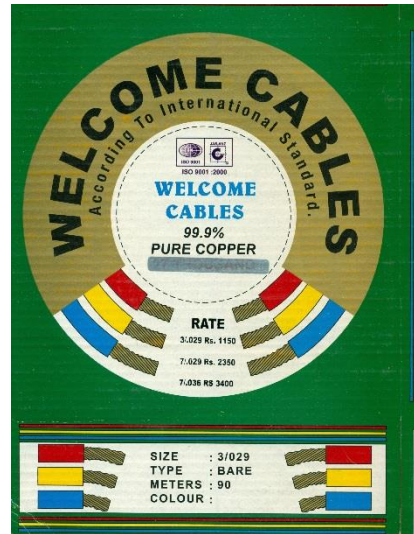
55. In the reply they submitted the detail of their products along with the price list. They further submitted that cash/prize coupons are present in their product package of values Rs. 20 or Rs. 50. It was further presented that the purposes of inserting cash coupons are as follows:

- i. To discourage the retailer from selling counterfeit products.
- ii. To ensure the validity of the product to the consumer as not being a fake product.
- iii. To serve as a second line of defense to ensure that the retailer is held accountable in case of sale of fake products.

56. They stated that the use of cash coupons is a standard market practice and they followed the same without compromising on the quality of the product. It was further stated that they sell the best quality products. Furthermore, a list of products along with their prices and the sample of cash coupons were also submitted.

57. It was further submitted that although no disclosure is given on the packaging, however, the dealers and the customers are fully aware of their presence. The customer is also allowed to open the pack himself to avail this benefit. A reference of Section 11 (1) "Duty of Disclosure" of Punjab Consumer Protection Act, 2005 was also given which is reproduced below:

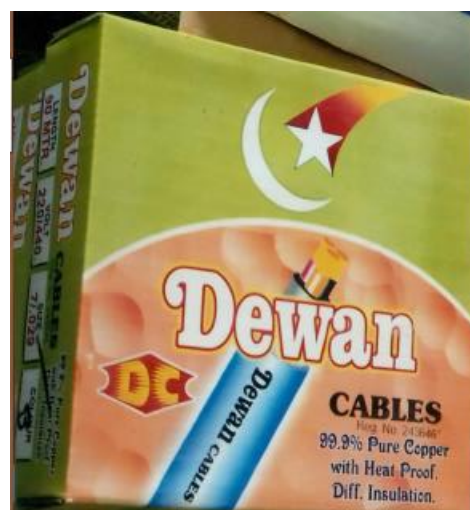
"Where the nature of the product is such that the disclosure of its component parts, ingredient, quality, or date of manufacture and expiry is material to the decision of the consumer to enter into a contract for sale, the manufacturer shall disclose the same."



58. Samples of packaging and Test Reports regarding product specification were also submitted by them. They alleged that they had no intention to deceive and in fact their undertaking is compromising on profit margins to compensate the value of cash coupons. They further requested the enquiry officers to withdraw the enquiry initiated against them.

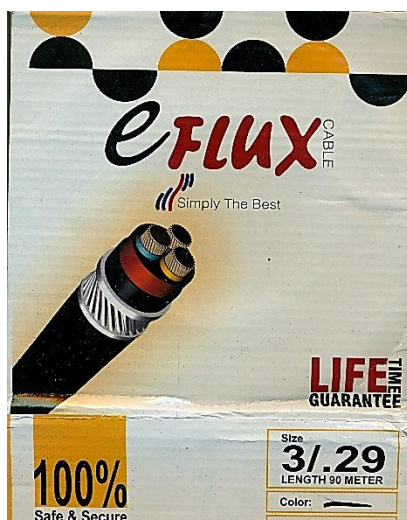
4.23 DEWAN CABLES:

59. A letter for the provision of information was written to the undertaking dated: 26-04-2016. No reply has been received in the given time period therefore another letter as reminder was issued to them dated: 26-05-2016. Despite of providing a sufficient time period, the undertaking failed to respond on any query raised by the enquiry officers.



4.24 E-FLUX CABLES:

60. A letter for the provision of information was written to the undertaking dated: 26-04-2016. The undertaking has submitted its reply on 03-05-2016. The undertaking submitted a list of the wire cables produced by it along with the price list. They stated that cash coupons are used for promotional purposes although no disclosure is present on the packaging. Coupon samples were also submitted by them.



61. Below is the details of available coupons submitted by them:

S. No.	Product Type	Coupon Rates (Rs.)
1	3/29	50
2	7/29	100
3	7/36 (4mm)	100
4	7/44 (6mm)	100
5	7/52 (10mm)	100
6	7/64 (16mm)	100

4.25 HERO CABLES:

62. A letter for the provision of information was written to the undertaking dated: 26-04-2016. No reply has been received in the given time period therefore another letter as reminder was issued to them dated: 26-05-2016. Despite of providing a sufficient time period, the undertaking failed to respond on any query raised by the enquiry officers.



4.26 FALCON CABLES:

63. A letter for the provision of information was written to the undertaking dated: 26-04-2016. However, no reply has been received in the given time period. Despite of providing a sufficient time period, the undertaking failed to respond on any query raised by the enquiry officers.



4.27 LEAR CABLES:

64. A letter for the provision of information was written to the undertaking dated: 27-04-2016. The undertaking in response requested for an extension in time for the submission of reply dated: 06-05-2016, the same was granted to them. The undertaking in response has submitted its reply vide letter dated 13-05-2016. They submitted that M/s Amina Trading Company is responsible for distribution of Lear wires and cables in Pakistan which are manufactured by M/s Khwaja Electric Industry. The product is registered with the trademark no. 148843. It was further submitted that M/s Khwaja Electric Industry as obtained test reports in favour of the undertaking by PCSIR pertinent to its quality and accuracy. They further submitted that QA International had given recognition to the product under consideration for their quality and has been awarded Certificate ISO-9001:2008 in year 2009.

65. They alleged that the producers of the product have a strict policy towards maintenance of quality. They submitted that since the commencement of the marketing activities, great efforts have been invested for the purpose of increase in sales, however, the same was achieved in accordance of the law of the country. They further submitted that they have not been involved in deceptive marketing practices.

66. In reference to the questions asked from the undertaking, a detailed product list was presented. However, the price list was not presented as it had to be calculated first. With respect to cash coupons, the undertaking stated that it has discontinued the process of putting cash coupons or any promotional material in the product packaging. It was, however, pointed out that they were engaged in such practices as it was a market norm and they were forced to practice the same due to competition.

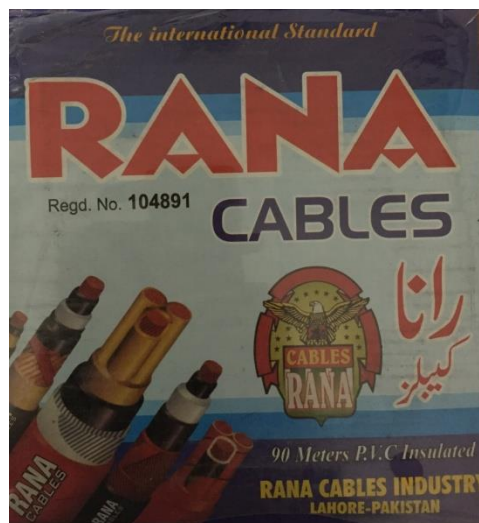
67. They further stated that the coupons were present in the packaging as a surprise and the amount of the prize ranged between Rs. 20 and Rs. 100. It was, however, submitted that since this practice has been discontinued, the sample of cash coupons is not available. However, the samples would be presented before the Commission during the hearing. The product packaging contained no disclosure pertinent to the presence of coupons.



68. They reiterated that the sample packaging would be produced during the hearing where the undertaking would like to present the required material along with an opportunity to clarify its position. They requested that an opportunity of hearing may be provided to them.

4.28 RANA CABLES:

69. A letter for the provision of information was written to the undertaking dated: 27-04-2016. No reply has been received in the given time period therefore another letter as reminder was issued to them dated: 26-05-2016. Despite of providing a sufficient time period, the undertaking failed to respond on any query raised by the enquiry officers.



5. ANALYSIS:

70. Before going to analyze the case of each of the undertaking it is important to recall the issue in question as indicated in para 3 of the enquiry report:

Whether the act of the undertakings is in, prima facie, violation of Section 10 of the Act (deceptive marketing practices) or not?

71. With reference to the above it is important to address the main issue i.e. whether omission of information regarding the availability of cash coupon in the cable wire bundle constitutes deceptive marketing practices under Section 10 of the Act.

72. Since Section 10 of the Act prohibits deceptive marketing practices therefore, the relevant provision is hereby reproduced for ease of reference:¹

"Deceptive marketing practices.

(1) No undertaking shall enter into deceptive marketing practices.

(2) The deceptive marketing practices shall be deemed to have been resorted to or continued if an undertaking resorts to:

(a) the distribution of false and misleading information that is capable of harming the business interests of another undertaking

(b) the distribution of false or misleading information to consumers, including the distribution of information lacking a reasonable basis, related to the price, character, method or place of production, properties, suitability for use, or quality of goods;"

73. It is pertinent to mention here that the cost of the cable wire along with the prize of cash coupon has been born by the consumer who actually purchase the electric cable bundle. Due to the omission of disclosure about the placement of cash coupon on the packaging of the cable wire bundle the actual consumer remains unaware about the presence of cash coupon. It has also been observed that these coupons are placed deep inside the cable wire bundle and can only be detected by the electrician who is actually fixing the cable. In this way only electrician can get the benefit of the cash coupon scheme instead of the actual consumer himself.

74. The enquiry officers during their survey also revealed that being a part of relevant market, the electricians are well aware about the prize of cash coupons offered by different undertakings. Since they want to encash the benefit associated with the prize, they preferably suggest the cable wire bundle with higher amount of cash coupons inside the packaging without considering its quality. The consumer, being not the part of the same market usually relay on the suggestions given by the electricians and hence suffers an undesirable loss regarding the quality of the electric wire purchased.

¹ http://www.cc.gov.pk/images/Downloads/competitionn_act_2010.pdf

75. Here reference has been made to Federal Trade Commission Act (FTC) Policy Statement. Some the relevant extracts regarding the "Omission of material information" are as under:²

Section 5 of the FTC Act declares unfair or deceptive acts or practices unlawful³.

An act or practice is deceptive where:

- **A representation, omission, or practice misleads or is likely to mislead the consumer;**
- **A consumer's interpretation of the representation, omission, or practice is considered reasonable under the circumstances; and**
- **The misleading representation, omission, or practice is material.**

76. We are of the considered view that important features printed on the cable wire bundles enables the consumers to get the benefit of the same without compromising on the quality.

77. It is therefore concluded that insertion of cash coupons in the bundles of electric cable wires, without due disclosure will attract the provisions of clause (a) & (b) subsection (2) of Section 10 of the Act. As it not only misleads the actual consumer while making the purchase decision but it also gives a competitive edge to the undertaking omitting the material information over the other undertakings in the same line of business.

78. Some important references in this regard are as under:

79. In the case of International Harvester Co., 104 F.T.C. 949 at pg. 1058, it was held that:⁴

"[i]t can be deceptive to tell only half the truth, and to omit the rest. This may occur where a seller fails to disclose qualifying information necessary to prevent one of his affirmative.

"It can also be deceptive for a seller to simply remain silent, if he does so under circumstances that constitutes an implied but false representation." statements from creating a misleading impression..."

² <http://www.federalreserve.gov/boarddocs/supmanual/cch/ftca.pdf>

³ https://www.ftc.gov/system/files/documents/public_statements/410531/831014deceptionstmt.pdf

⁴ <http://www.cc.gov.pk/images/Downloads/token-paints-order.pdf>

80. Reference is also made to Cliffdale Associates, Inc., 103 F.T.C. 110, (1984) wherein it was held:

"when the first contact between a seller and a buyer occurs through a deceptive practice, the law may be violated even if the truth is subsequently made known to the purchaser."

81. In American Home Products, 98 F.T.C. 136, 370 (1981) it was held that:⁵

"...Whether the ill-effects of deceptive nondisclosure can be cured by a disclosure requirement limited to labeling, or whether a further requirement of disclosure in advertising should be imposed, is essentially a question of remedy. As such it is a matter within the sound discretion of the Commission. The question of whether in a particular case to require disclosure in advertising cannot be answered by application of any hard-and-fast principle. The test is simple and pragmatic: Is it likely that, unless such disclosure is made, a substantial body of consumers will be misled to their detriment?"

82. Further reference can be made to Guidelines for Small Business by FTC which provides that:⁶

"The FTC looks at what the ad does not say – i.e., if the failure to include information leaves consumers with a misimpression about the product. For example, if a company advertised a collection of books, the ad would be deceptive if it did not disclose that consumers actually would receive abridged versions of the books..."

83. The above said Guidelines further provides that:

"Ads that include rebate promotions should prominently state the before-rebate cost, as well as the amount of the rebate. Only then will consumers know their actual out-of-pocket cost and have the information they need to comparison shop. Rebate promotions also should clearly disclose any additional terms and conditions that consumers need to know, including the key terms of any purchase requirements, additional fees, and when consumers can expect to receive their rebate

84. Replies received by the undertakings and the market survey conducted by the enquiry officers for each of the undertaking has been analyzed separately under their respective heads in the light of Section 10 of the Act.

⁵ https://www.ftc.gov/system/files/documents/public_statements/410531/831014deceptionstmt.pdf

⁶ <https://www.ftc.gov/tips-advice/business-center/guidance/advertising-faqs-guide-small-business>

5.1 A.G.E. INDUSTRIES:

85. As indicated in para 11 above the undertaking has submitted that there is no promotional material distributed by the them. It was also submitted that the undertaking is not engaged in any schemes involving cash coupons present in their packaging. The enquiry officers also revealed the same during their market survey. It is therefore concluded that the undertaking is not involved in the non disclosure of material information to the consumers and thus does not attracts the provision of Section 10 of the Act.

5.2 PAKISTAN CABLES:

86. As indicated in para 12 to 15 above, the undertaking has initiated a Loyalty Club Scheme for all the purchasers of the General Wiring Single Core cables. The top of each box has a Loyalty Club coupon printed on it for which the customers receive some points known as the loyalty points. Each product has different points associated with them. Different points are then allocated to different prizes. The purchasers are required to accumulate certain specified points which can be submitted as a coupon to the seller to retrieve the prize offered against those number of points. This information is also available on the back of the products' boxes. This information is printed on brochures as well.

87. It has been observed that the undertaking has made proper disclosures regarding their promotional scheme on the packing of their products as well as on brochures. It is therefore concluded that the undertaking is not involved in the, *prima facie*, violation of Section 10 of the Act.

5.3 PIONEER CABLES:

88. As indicated in para 16 to 18 above, The undertaking has submitted that they does not offer any cash coupons or any of form of gifts for the promotion of its products. It was further presented that no other form of promotion material is used by company either. The market survey by the enquiry officers indicated the same results. It is therefore concluded that the undertaking is not involved in the non disclosure of material information to the consumers and thus does not attracts the provision of Section 10 of the Act.

5.4 ATLAS CABLES:

89. As indicated in para 19 to 21 above, the undertaking is not using cash coupons or any other promotional material to market its products. Same has been revealed during the market survey by the enquiry officers. It is therefore concluded that the undertaking is not involved in the non disclosure of material information to the consumers and thus does not attracts the provision of Section 10 of the Act.

5.5 H.M ISMAIL AND COMPANY:

90. As indicated in para 22 above, the undertaking has not submitted any reply to the enquiry officers. However, the market survey by the enquiry officers indicates that the undertaking is not offering cash coupons inside the cable wire without proper disclosure on the packaging of the product, thus does not attracts the provision of Section 10 of the Act.

5.6 NEWAGE CABLES:

91. As indicated in para 23 to 25 above, the undertaking alleged that there are no cash coupons present in the packaging of any of their products. They further submitted that there is no other form of promotional material used by them. The market survey by the enquiry officers revealed the same results. It is therefore concluded that the undertaking is not involved in the non disclosure of material information to the consumers and thus does not attracts the provision of Section 10 of the Act.

5.7 MUTAHIR METAL WORKS:

92. As indicated in para 26 to 27 above, the undertaking has submitted that they are not offering any cash coupons or promotional material for their industrial supplies which requires disclosure. The market survey by the enquiry officers revealed the same results. It is therefore concluded that the undertaking is not involved in the non disclosure of material information to the consumers and thus does not attracts the provision of Section 10 of the Act.

5.8 ALLIED INDUSTRIES HUB PRIVATE LIMITED:

93. As indicated in para 28 to 29 above, the undertaking has submitted that they are not offering any cash coupons or promotional material to the customers which requires disclosure. The market survey by the enquiry officers revealed the same results. It is therefore concluded that the undertaking is not involved in the non disclosure of material information to the consumers and thus does not attracts the provision of Section 10 of the Act.

5.9 DAWN CABLES:

94. As indicated in para 30 to 31 above, the undertaking has submitted that they are offering cash coupon of Rs. 20 on a random basis. They also attached the sample of the cash coupon. They stated that there is no disclosure regarding the presence of a coupon on the packaging of their products or in any other promotional material.



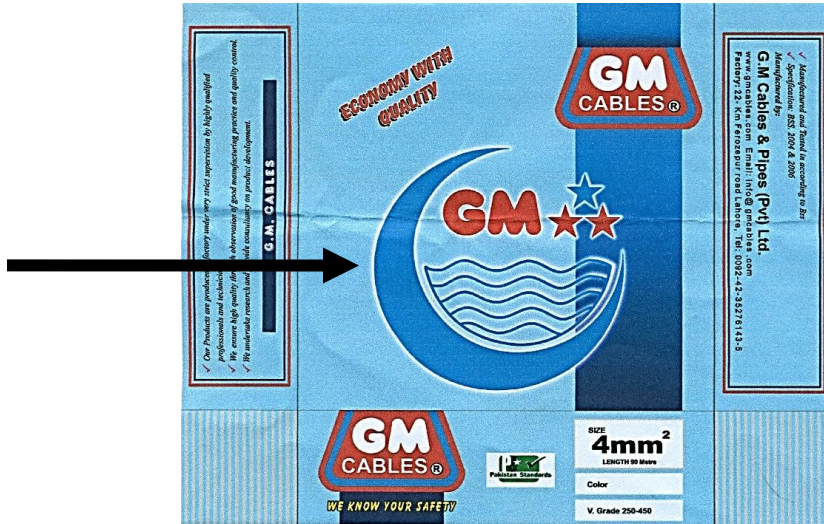
95. It is therefore concluded that failure to disclose the material information about the presence of cash coupons on the packaging of the cable wire constitutes the, *prima facie*, violation of Section 10 of the Act.

5.10 G.M. CABLES AND PIPES:

96. As indicated in para 32 to 35 above, the undertaking has submitted that no promotional material is used by them. Since no cash coupons are offered, no details or samples were provided pertaining to the cash coupons.

97. However, the enquiry officers during their market survey have revealed that the undertaking is offering cash coupon which is the part of the packaging and appears like a moon with a code (in digits) printed on it. There is no disclosure about the cash coupon on the packaging of their wire cable nor do they admit its presence in the reply

but the same is easily acceptable by the sellers of G.M cables. The shopkeepers usually offered a sum of money ranges between Rs:30 to Rs:50 in return, depending on the type of wire cable being purchased.

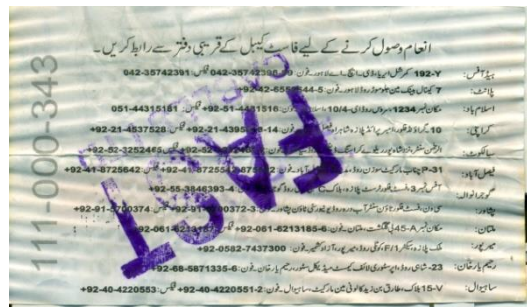


98. In the light of above, it has been concluded that G.M. Cables & Pipes are offering cash coupons without proper disclosure on the packaging of their wire cable. The failure to disclose the material information about the presence of cash coupons on the packaging of the cable wire constitutes the, *prima facie*, violation of Section 10 of the Act.

5.11 FAST CABLES:

99. As indicated in para 36 to 39 above, the undertaking has submitted that they are not involved in use of any cash coupons in its promotional material. They further submitted that are involved in direct marketing i.e. door-to-door sales promotion by their sales and marketing staff.

100. However, the market survey by the enquiry officers reveals different results. It has been observed that the undertaking is involved in offering the cash coupon inside their wire cable and no disclosure has been made by them on the packaging of their wire cable.



101. In the light of above, it has been concluded that Fast cables are involved in offering cash coupons without proper disclosure on the packaging of their wire cable. The failure to disclose the material information about the presence of cash coupons on the packaging of the cable wire constitutes the, *prima facie*, violation of Section 10 of the Act.

5.12 EAGLE CABLES (PVT) LTD:

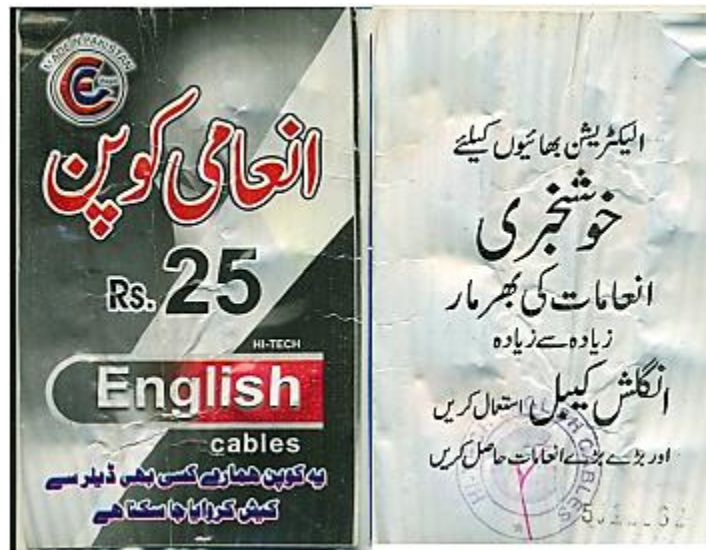
102. As indicated in para 40 to 41 above, the undertaking has submitted that they are not offering any cash coupons to the customers which requires disclosure. The market survey by the enquiry officers revealed the same results. It is therefore concluded that the undertaking is not involved in the non disclosure of material information to the consumers and thus does not attracts the provision of Section 10 of the Act.

5.13 RANA CABLE NETWORK:

103. As indicated in para 42 above, the undertaking has not submitted any reply to the enquiry officers. However, the market survey by the enquiry officers indicates that the undertaking is not offering cash coupons inside the cable wire without proper disclosure on the packaging of the product, thus does not attracts the provision of Section 10 of the Act.

5.14 HI-TECH ENGLISH CABLE :

104. As indicated in para 43 above, despite of sending a reminder by the enquiry officers, the undertaking failed to respond on the queries raised by the enquiry officers. However, the market survey by the enquiry officers revealed that Hi-Tech English Cable is offering cash coupons without proper disclosure on the packaging of their wire cable and thus constitutes the, *prima facie*, violation of Section 10 of the Act.



5.15 PAK MUZAFFAR CABLES:

105. As indicated in para 44 above, despite of providing a sufficient time period the undertaking failed to respond on any query raised by the enquiry officers. However, the market survey by the enquiry officers revealed that Pak Muzaffar Cable is offering cash in the form of Rs:50 Note inside their wire cable bundle without proper disclosure on its packaging and thus constitutes the, *prima facie*, violation of Section 10 of the Act.



5.16 ALFA PLUS WIRE & CABLES:

106. As indicated in para 45 to 47 above, the undertaking has submitted that they have been involved in using coupons as a promotion strategy as per prevalent market practices. However, the undertaking did not intend to violate the law. They further stated that they have already changed the packaging of their products which contains the disclosure of presence of coupons. They committed to continue the same in the future. Samples of the new packaging were also shared.



107. In the light of above, it has been concluded that since Alfa Plus Wire & Cables were involved in offering cash coupons without proper disclosure on the packaging of their wire cable, it constitutes the, *prima facie*, violation of Section 10 of the Act.

5.17 HI-ACE ENGLISH CABLES:

108. As indicated in para 48 above, despite of giving an extension in time to the undertaking by the enquiry officers. The undertaking failed to respond on the queries raised by the enquiry officers. However, the market survey by the enquiry officers revealed that Hi-Ace English Cable is offering cash coupons without proper disclosure on the packaging of their wire cable and thus constitutes the, *prima facie*, violation of Section 10 of the Act.



5.18 GOLD ROYAL CABLES :

109. As indicated in para 49 above, despite of providing a sufficient time period the undertaking failed to respond on any query raised by the enquiry officers. However, the market survey by the enquiry officers revealed that Gold Royal Cables are offering cash coupons without proper disclosure on the packaging of their wire cable and thus constitutes the, *prima facie*, violation of Section 10 of the Act.



5.19 ZAFAR CABLES :

110. As indicated in para 50 above, despite of providing a sufficient time period the undertaking failed to respond on any query raised by the enquiry officers. However, the market survey by the enquiry officers revealed that Zafar Cables are offering cash coupons without proper disclosure on the packaging of their wire cable and thus constitutes the, *prima facie*, violation of Section 10 of the Act.



5.20 NATION CABLES :

111. As indicated in para 51 above, despite of providing a sufficient time period the undertaking failed to respond on any query raised by the enquiry officers. However, the market survey by the enquiry officers revealed that Nation Cables are offering cash coupons without proper disclosure on the packaging of their wire cable and thus constitutes the, *prima facie*, violation of Section 10 of the Act.



5.21 PULLER CABLES:

112. As indicated in para 52 & 53 above, the undertaking did not expressly admit the placement of cash coupons in the packaging of their wire cable however they submitted that there was no intention of violating the law. They further assure their compliance with the provisions of the Act in future. The market survey by the enquiry officers revealed that Puller Cables are offering cash coupons without proper disclosure on the packaging of their wire cable and thus constitutes the, *prima facie*, violation of Section 10 of the Act.



5.22 WELCOME CABLES:

113. As indicated in para 54 & 58 above, the undertaking in its reply has stated that the use of cash coupons is a standard market practice and they followed the same without compromising on the quality of the product.



114. The market survey by the enquiry officers also revealed that Welcome Cables are offering cash coupons as well as cash in rupee without proper disclosure on the packaging of their wire cable and thus constitutes the, *prima facie*, violation of Section 10 of the Act.

5.23 DEWAN CABLES :

115. As indicated in para 59 above, despite of writing a reminder and providing a sufficient time period to the undertaking. They failed to respond on any query raised by the enquiry officers. However, the market survey by the enquiry officers revealed that Dewan Cables are offering cash coupons without proper disclosure on the packaging of their wire cable and thus constitutes the, *prima facie*, violation of Section 10 of the Act.



5.24 E-FLUX CABLES:

116. As indicated in para 60 above, the undertaking has submitted that cash coupons are used by them for promotional purposes although no disclosure is present on the packaging.



117. The market survey by the enquiry officers also revealed that E-Flux Cables are offering cash coupons without proper disclosure on the packaging of their wire cable and thus constitutes the, *prima facie*, violation of Section 10 of the Act.

5.25 HERO CABLES :

118. As indicated in para 62 above, despite of writing a reminder and providing a sufficient time period to the undertaking. They failed to respond on any query raised by the enquiry officers. However, the market survey by the enquiry officers revealed that Hero Cables are offering cash coupons without proper disclosure on the packaging of their wire cable and thus constitutes the, *prima facie*, violation of Section 10 of the Act.



5.26 FALCON CABLES :

119. As indicated in para 63 above, despite of writing a reminder and providing a sufficient time period to the undertaking. They failed to respond on any query raised by the enquiry officers. However, the market survey by the enquiry officers revealed that Falcon Cables are offering cash coupons without proper disclosure on the packaging of their wire cable and thus constitutes the, *prima facie*, violation of Section 10 of the Act.



5.27 LEAR CABLES:

120. As indicated in para 64 to 68 above, the undertaking stated that it has discontinued the process of putting cash coupons or any promotional material in the product packaging. They pointed out that they were engaged in such practices as it was a market norm and they were forced to practice the same due to competition.
121. They further stated that the coupons were present in the packaging as a surprise and the amount of the prize ranged between Rs. 20 and Rs. 100. It was further submitted that since this practice has been discontinued, the sample of cash coupons is not available. However, the samples would be presented before the Commission during the hearing. The product packaging contained no disclosure pertinent to the presence of coupons.
122. In the light of above, it has been concluded that since Lear Cables were involved in offering cash coupons without proper disclosure on the packaging of their wire cable, it constitutes the, *prima facie*, violation of Section 10 of the Act.

5.28 RANA CABLES :

123. As indicated in para 69 above, despite of writing a reminder and providing a sufficient time period to the undertaking. They failed to respond on any query raised by the enquiry officers. However, the market survey by the enquiry officers revealed that Rana Cables are offering cash coupons without proper disclosure on the packaging of their wire cable and thus constitutes the, *prima facie*, violation of Section 10 of the Act.



6. CONCLUSION AND RECOMMENDATION:

124. Keeping in view of above, it has been concluded that the due to the omission of disclosure about the placement of cash coupon on the packaging of the cable wire bundle the actual consumer remains unaware about the presence of cash coupon and hence it ultimately transfers the benefit of the cash coupon to the electrician instead of

actual purchaser of the product. It has also been observed that in order to encash the benefit associated with the prize, the electrician preferably suggest the cable wire bundle with higher amount of cash coupons hence compromising the quality of the wire suggested by him to the consumer.

125. Omission of material information not only misleads the consumers about their purchase decision but it also gives a competitive edge to the undertaking omitting the material information over the other undertakings in the same line of business. Thus attracts the provisions of Section 10 (1) in terms of Section 10 2 (a) & (b) of the Act
126. It is in the interest of public at large that the undertakings should disclose correct and complete information regarding their products during the process of advertisement. Important features printed on the cable wire bundles enables the consumers to get the benefit of the same without compromising on the quality.
127. Therefore, it is recommended that in the interest of the public at large that proceedings may be initiated against Dawn Cables, G.M. Cables and pipes, Fast Cables, Hitech English Cables, Pak Muzaffar Cable, Alfa Plus Wire Cable, Hi Ace English Cable, Gold Royal Cable, Zafar Cable, Nation Cable, Puller Cable, Welcome Cables, Dewan Cables, E-Flux Cables, Hero Cable, Falcon Cables, Lear Cables and Rana Cables under provisions of Section 30 of the Act for, *prima facie*, violation of Section 10 of the Act, in accordance with law.

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Marryum Pervaiz
Deputy Director (OFT)

Faiz ur Rehman
Assistant Director (OFT)