

**COMPETITION COMMISSION OF PAKISTAN**

**ENQUIRY REPORT**

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

**IN THE MATTER OF ENQUIRY CONDUCTED AGAINST M/S RECKITT  
BENCKISER PAKISTAN LIMITED FOR DECEPTIVE MARKETING  
PRACTICES**

**BY**

Noman Laiq & Marrayum Pervaiz

**Dated: 04/10/2013**

## **I. 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
2. M/s Reckitt Benckiser Pakistan Limited (hereinafter refer to as ‘**undertaking**’) while marketing one of its products i.e. ‘**Dettol Surface Cleaner**’ through aired advertisements on television, has made certain claims about their product. It has been alleged that the undertaking has no reasonable basis to make such claims and the claims are capable of harming the business interest of other entities and are disseminating misleading and false information to the consumers that lacks a reasonable basis, related to character, properties or quality of the product, and the advertisement also includes false or misleading comparison of goods, in violation of Section 10 of the Act.
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, Joint Director (OFT) and Ms. Marryum Pervaiz, Assistant Director (OFT), as the enquiry officers.
4. The mandate of the enquiry is to determine whether the undertaking has violated Section 10 of the Act. In view of the initial evidence, the enquiry has been focused on the following three issues.
  - (i) Is the conduct of the undertaking capable of harming the business interest of another undertaking in violation of Section 10(2) (a) of the Act?
  - (ii) Is the undertaking disseminating false or misleading information to the consumers that is lacking a reasonable basis, related to character, properties or quality of goods in violation of Section 10(2)(b) of the Act?
  - (iii) Does the advertisement include a false or misleading comparison of goods in violation of Section 10(2)(c) of the Act?

## **II. DECEPTIVE CLAIMS BY THE UNDERTAKING:**

5. The undertaking 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. Its health, home, and hygiene brands are sold in many countries all around the world.
6. One of their products is **Dettol Surface Cleaner** (hereinafter refer to as ‘Product’). It is a hygiene product used to clean the germs from the floor. The advertisement of the

product has been aired on various TV channels (CD attached as Annex-A). The voice over of the aired advertisement is as follow:

میں چھوٹا سا اک بچا ہوں پر کام کروں گا بڑے بڑے۔	پس پردہ آواز:
بڑے کام کیسے کرے گا جب اس جراثیم بھرے فرش سے بیمار پڑے گا۔	پہلی آواز:
لیکن میں تو روزانہ فنائل سے پونچا گاتی ہوں۔	دوسری آواز:
اور فنائل جراثیم کے خلاف بالکل بیکار۔	پہلی آواز:
صرف Dettol Surface Cleaner	پس پردہ آواز:
فنائل کے مقابلے میں دے جراثیم سے دس گنا زیادہ حفاظت	
جہاں دس گنا زیادہ حفاظت وہاں بیماری کا کیا کام۔۔۔؟	پہلی آواز:
Dettol Surface Cleaner دے جراثیم سے دس گنا زیادہ حفاظت۔۔۔	

7. Moreover another claim that the product can **kill 99.9% of germs** is given on the packaging of the product which can be seen as under:
8. This advertisement and the packing of the undertaking contains the following deceptive claims:
  - (i) Phenyl is highly ineffective against germs.
  - (ii) Only Dettol surface cleaner can kill more germs than Phenyl.
  - (iii) Dettol surface cleaner can kill 99.9% of germs.
  - (iv) Dettol surface cleaner can kill germs 10 times more than Phenyl.
9. The claims on the packaging and advertisements of the product, are *prima facie*, a violation of Section 10 of the Act, which for ease of reference is reproduced below:

**Section 10. 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 or 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;

(c) false or misleading comparison of goods in the process of advertising; or

(d) fraudulent use of another's trademark, firm name, or product labeling or packaging.

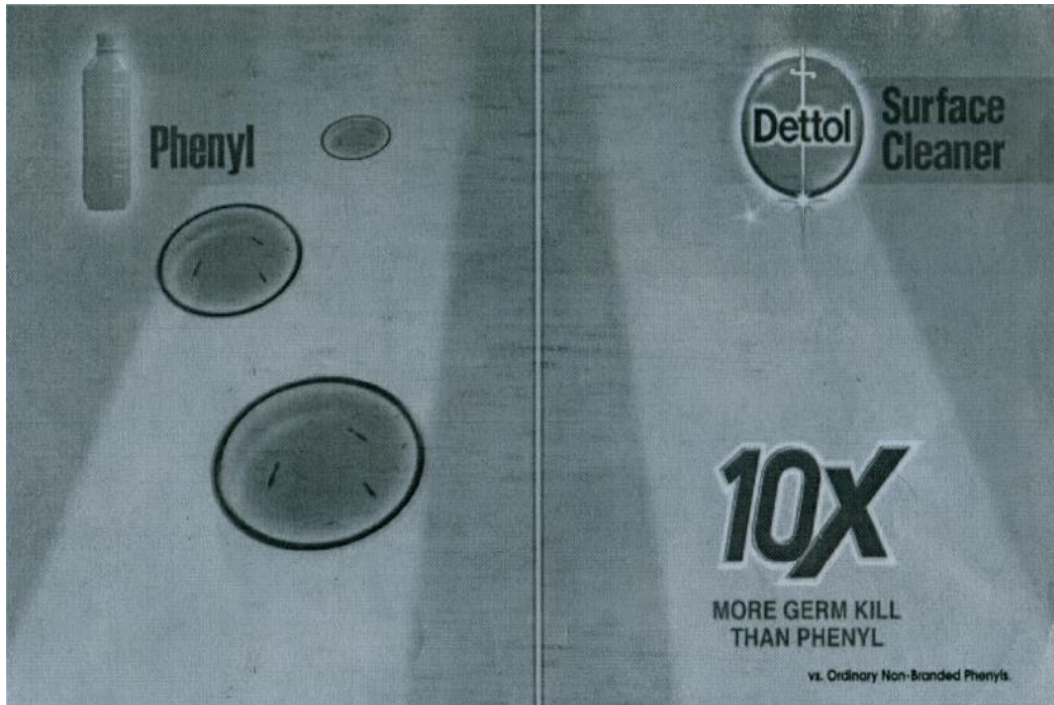


### III. REPLY OF THE UNDERTAKING:

10. A letter was written by the enquiry officers to the undertaking on August 21, 2013, and they were asked to provide the basis of the aforementioned claims as the advertisement was, *prima facie*, deceptive in terms of Section 10 of the Competition Act, 2010, in specific 10(2) (a) (b) & (c).

11. The undertaking initially requested for an extension in the submission of the reply through a letter dated: August 27, 2013. Considering their request, an extension in time was granted to them until September 13, 2013.
12. The undertaking has submitted its reply on September 09, 2013, in which they claimed that they hold a laboratory report (SABS Report) which confirms that Dettol can kill 99.9% of germs (Annex-B). As per the report, organisms on which the test was performed are Pseudomonus aeruginosa, Escherichia coli, and staphylococcus aureus.
13. They also submitted a disinfectant efficacy study as per certain specifications conducted by the undertaking itself, showing that Dettol can kill germs 10 times more than ordinary unbranded phenyl (Annex-C). Regarding the first two claims, i.e. Phenyl is highly ineffective against germs and only Dettol surface cleaner can kill more germs than Phenyl, they submitted that they also hold a reasonable basis on the ground of their study which proves that their product is '10 times more effective in killing germs than ordinary phenyl'. They also agreed to add a disclaimer in the advertisement 'Vs. Ordinary Non-Branded phenyls'. The copy of the amended advertisement as suggested by the undertaking is as under:





14. However, on reviewing the reply, the enquiry officers found it unsatisfactory, and therefore the undertaking was called for a meeting. Another letter was written to them dated: September 16, 2013, in which they were asked to clarify the following issues:
- i. Does the product have an EPA/other (National or International organization) of similar type? If yes, please mention the Registration Number?
  - ii. What are the active ingredients? (Quats, Phenolics, Chlorine Bleach, Iodine, or Pine Oil?)
  - iii. Explain in detail SOP 080.07 (EN 1276).
  - iv. Is it safe for daily use by housekeepers and custodians?
  - v. Is the procedure to kill the germs accurately given on the packaging of the product?
  - vi. Will it damage the surfaces cleaned with it?
  - vii. What germs does it kill? Please specify.
  - viii. What is the dilution ratio of the product?
  - ix. Is it a “one-step” disinfectant-cleaner or a disinfectant?
  - x. Is it effective in hard water?
  - xi. Is it effective in the presence of organic soil?
  - xii. Are the testing conditions universal or just test specific?

#### IV. MEETING & FURTHER CORRESPONDENCE WITH THE UNDERTAKING:

15. A meeting was held between the enquiry officers and the representatives of the undertaking. Ms. Muna Farid (Regional Legal Director), Mr. Haider Sheikh (Category Manager), and Mr. Muhammad Zaki Khan (R & D associate) had attended the meeting on behalf of their undertaking. In the meeting, the representatives clarified that the product has been advertised after the laboratory test conducted in SAB laboratory, which shows that the product can kill 99.9% of the germs. The product follows the international standard and is registered with the National Regulator for compulsory specifications in South Africa. They also presented again the disinfectant efficacy study conducted by the undertaking itself, showing that Dettol can kill germs 10 times more than an ordinary unbranded phenyl.
16. During the meeting, they clarified that they only considered unbranded phenyls as their competitors, as they covered a large part of market. In their opinion, unbranded phenyl is the phenyl sold in disposable water bottles.
17. They were asked to substantiate the claim that ***“Only Dettol surface cleaner can kill germs more than Phenyl”*** as the use of word only in the advertisement has made it clear that there is no surface cleaner other than Dettol, which can kill germs more than Phenyl. In this contention, the undertaking was asked if they had tested Phenyl with other surface cleaners available in the market. They alleged that they only tested the unbranded phenyl against their own product. However, they agreed to consider the deletion of the word only in the voice over of the advertisement after confirming from the senior management.
18. They were asked that why are they not using the word ‘bacteria’ on the packaging of the product instead of ‘germs’ as germs include bacteria, viruses, fungi and Protozoas while the test of the product was conducted on only three species of bacteria. The undertaking has submitted that they are following the definition of germs given in the European standards. They were asked to submit the same to the enquiry officer in their reply.
19. They alleged that their product is completely safe for daily use in the house. It has been tested on metals, plastic, etc. The whole procedure to apply the product is given on the packaging of the product. The product is tested in hard water therefore; it is also soluble in soft water and gives the same efficacy. It is a one step disinfectant and the procedure of use is given on the packaging of the product reproduced on the next page:



20. Later, another letter was received from the undertaking dated: October 03, 2013, stating that germs comprise of bacteria and virus based on internationally accepted definitions. However, they alleged that in the consumer communication the definition refers to commonly occurring disease. For other claims, they stated that they intend to use all the claims with the same voice-over, but the disclaimer will be added in the same advertisement.

**‘Based on a comparison of Dettol Surface Cleaner vs. Ordinary non-branded phenyl’**

21. The undertaking has also submitted the reply of all the queries raised by the enquiry officer, reproduced as below:

**A. Does the product have an EPA or other (national or international organizations of similar type)? If yes, please mention registration number.**

The product follows the international standards and is registered with National Regulator for Compulsory Specifications (NRCS) in SA. This product is manufactured in Pakistan and is identical to the formulation RB manufactures and sells in South Africa & Middle East.

**B. What are the active ingredients? (Quats, phenolics, Chroline Bleach, Iodine, or Pine Oil)?**

Quats are used as the active ingredients in Dettol Surface Cleaner (DSC).



**C. Explain in detail SOP 080.07 (EN1276)**

EN-1276 is the European Standard on which the Reckitt Benkiser SOP 080.07 is based. This standard operating procedure is used by RB for evaluating efficacy of surface cleaning product under testing conditions required by EN-1276.

**D. Is it safe for daily use by housekeepers and custodians?**

The product is considered safe when used in accordance with directions for use and when applicable general precautions are taken while using such surface cleaning & disinfection product.

**E. Is the procedure to kill the germs accurately on the packaging of the product?**

The usage instructions to kill the germs are mentioned on the label.

**F. Will it damage the surface clean with it?**

It is safe to be used on the hard surface commonly available in household when used as per labeled directions.

**G. What germs does it kill? Please specify In accordance with the standard protocols the germs tested represent broad classes of commonly occurring diseases causing bacteria found in most households.**

The germs tested include Gram Positive & Gram Negative bacteria i.e., Staphylococcus Aureus, Pseudomonas, Escherichia Coli, Enterococcus Hirea.

**V. ISSUES & ANALYSIS:**

22. The issues that need to be addressed as already discussed above were:

- (a) Is the conduct of the undertaking capable of harming the business interest of other undertakings in violation of Section 10(2)(a) of the Act?
- (b) Is the undertaking disseminating false/misleading information to the consumers that is lacking a reasonable basis, related to character, properties or quality of goods in violation of Section 10(2)(b) of the Act?
- (c) Does the advertisement include false or misleading comparison of goods in violation of Section 10(2)(c) of the Act?

23. It is important here to recall and understand all the claims made by the undertaking with the words/terms exactly used in them:

- (i) Phenyl is highly ineffective against germs.
- (ii) Only Dettol surface cleaner can kill more germs than Phenyl.
- (iii) Dettol surface cleaner can kill 99.9% of germs.
- (iv) Dettol surface cleaner can kill germs 10 times more than Phenyl.

## (I) PHENYL IS HIGHLY INEFFECTIVE AGAINST GERMS:

24. In the first claim, the undertaking in the voice-over has put a contention that '*Phenyl is highly ineffective against germs*'. Therefore, there is a need to understand what Phenyl is? What is its chemical formation and its efficacy as a disinfectant?
25. Phenyl is a pine oil emulsion in water. Pine oil has germ-killing properties. Pine oil disinfectants are effective against yeast spores, E.coli, and other household germs. Pine cleaners are very good cleaners having disinfecting and deodorizing properties.<sup>1</sup>
26. If we look into the chemical composition of Phenyl, it is a hydrocarbon molecule with the formula C<sub>6</sub>H<sub>5</sub>. It is derived from benzene, therefore, has similar properties as benzene. However, it differs from benzene due to lack of a hydrogen atom in one carbon. Therefore, the molecular weight of Phenyl is 77 g mole<sup>-1</sup>. Phenyl is abbreviated as Ph. Phenyl molecule is substituted with an –OH group to give phenol. Therefore, phenol has a similar aromatic ring structure as Phenyl. However, its properties are different due to the –OH group.<sup>2</sup>
27. White Phenyl has wide-spread use and acceptance as a hard surface cleaner to remove greasy, fatty and oily soils from various non-porous hard surfaces like floors, bathrooms marbles, ceramics, metals, plastics, concrete, granite, walls, cabinet, appliances etc. White Phenyl assists in the removal of dirt and grim and leaves all surfaces and atmosphere pleasantly smelling. It is a popular disinfectant used in homes, hospitals, clinics, veterinary clinics, restaurants, factories, food establishments, offices, shops, schools, institutions, government departments etc.
28. Phenyl is used in the cleaning of various floor and toilet accessories. It is required in each household, corporate and the agencies involved in the cleaning of city, hospitals and other public area like Railway Stations and Bus Stands etc.
29. Phenyl has several advantages over other similar products; the same are listed below:
  - a. Pine cleaners are non-toxic to human and pets.
  - b. These cleaners are non-irritating to human skin, unlike phenol and creosote based black disinfectants.
  - c. Smell is very pleasant which lingers after use.
  - d. It does not discolor surfaces.
  - e. Pine oil is obtained from the pine tree, therefore the cleaner is herbal and environment friendly
  - f. Pine oil has germicidal properties, therefore it is used in hospitals and clinics and pet disinfection.
  - g. It is applicable on a variety of surfaces like glass, metal, porcelain, enamel, ceramic, plastic, linoleum, stone etc.
  - h. It imparts shine to hard surfaces after cleaning.<sup>3</sup>

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<sup>1</sup> <http://plantsandoils.hubpages.com/hub/Essential-Oil-of-Pine-Uses-and-Benefits-of-Pine-Oil>

<sup>2</sup> <http://www.differencebetween.com/difference-between-phenol-and-vs-phenyl/>

<sup>3</sup> <http://nstfdc.nic.in/userfiles/phenol.pdf>

30. In order to address the issues in hand, we must refer to the principle laid down by the Federal Trade Commission in its Order “**In the Matter of KFC Corporation**” for such representations. The relevant portion of the order is reproduced for ease of reference:

*I.*

*IT IS ORDERED that respondent, directly or through any corporation, subsidiary, division, or other device, in connection with the labeling, advertising, promotion, offering for sale, sale, or distribution of fried chicken, in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, including through the use of endorsements or the product name that:*

- A. Eating KFC fried chicken is better for a consumer’s health than eating a Burger King Whopper; or*  
*B. Eating KFC fried chicken is compatible with “low carbohydrate” weight loss programs;*

*unless the representation is true and, at the time it is made, respondent possesses and relies upon competent and reliable evidence, which for purposes of Part I.A. of this Order must be competent and reliable scientific evidence, that substantiates the representation.*

31. After analyzing the formation and efficacy of Phenyl, it is evident that the claim of the undertaking that ‘Phenyl is highly ineffective against germs’ is inappropriate. The undertaking in its reply has not only failed to provide a reasonable basis of this claim but this claim is also capable of harming the business interest of many other companies that make Phenyl therefore, *prima facie*, violates Section 10 (1) in general and in particular Section 10 (2) (a) & (b) of the Act.

**(II) ONLY DETTOL SURFACE CLEANER CAN KILL GERMS MORE THAN PHENYL:**

32. In the second claim, the use of word ‘only’ in the advertisement communicates that Phenyl is compared with many other surface cleaner and among them only Dettol is the one that can kill germs more than Phenyl.
33. However, the undertaking in this regard has relied again on the results of a comparative study that shows the comparison of their product with an ordinary unbranded phenyl. It has been observed that use of the word ‘only’ in the voice-over is not logical, as no test has been conducted with some other brand/competitor of surface cleaner in the market. The undertaking in its reply has failed to provide a reasonable basis of the said claim. They were also advised in the meeting to change the voice-over in the advertisement by excluding the word ‘only’, but they submitted that they intend to continue the same voice-over in the advertisement. The undertaking in this way is providing a misleading comparison of goods. At the same time, it is disseminating information that lacks reasonable basis related to the

character, properties and quality of goods therefore, *prima facie*, violates Section 10 (1) in general and in particular Section 10 (2) (b) & (c) of the Act.

### (III). DETTOL SURFACE CLEANER CAN KILL 99.9% OF GERMS:

34. The claim of the undertaking that their product can kill 99.9% of germs is revealed on the packaging of the product. The undertaking has submitted that they hold a laboratory report (SABS Test Report) which confirms that Dettol can kill 99.9% of germs. SAB is the laboratory working in South Africa. When the undersigned have checked the report, it has been observed that the test organisms in the report were *Pseudomonas aeruginosa*, *Escherichia coli*, and *staphylococcus aureus*. The product has been tested against these three species of bacteria and found 99.9% effective against them. It is observed that the undertaking is using the word 'germs' (which is more wider in nature) on the packaging of the product instead of 'bacteria' while the test of the product was conducted on only three species of bacteria.
35. It is noted that the use of word germ on the packaging of the product is highly deceptive and misleading as the general understanding is that bacteria, virus, fungi all are the forms of germs whereas, test was conducted on only 3 species of bacteria. In order to understand the term more clearly it has been searched on dictionary.
36. The general definition of germ given in oxford dictionary is:<sup>4</sup>
- *A microorganism, especially one that causes disease*
  - *A portion of an organism capable of developing into a new one or part of one.*
37. Whereas, medical dictionary define the terms 'Germ' as under:<sup>5</sup>
- *A small mass of living substance capable of developing into an organism or one of its parts*
  - *a very small living thing that causes disease*
38. Germs are disease-causing microorganisms that cause infection and illness. The best defense against germs is good hygiene and regular cleaning, whether it is your house or your body. Not only does this help to prevent the spread of germs, it also removes the types of conditions that encourage them to grow. The four major types of germs are bacteria, viruses, fungi, and protozoa. They can invade plants, animals, and people, and sometimes they make us sick. Germs can be categorized into four types:<sup>6</sup>
- A. **Bacteria** are single-celled organisms, which can reproduce very quickly. Bacteria get nutrients from their environments so they can live. In some cases, that environment is a human body. Bacteria can reproduce outside of the body or within the body as they cause infections.
- B. **Viruses** are simpler than bacteria in structure and are usually not even really considered a living organism. They possess the same ability as bacteria to clone themselves and reproduce rapidly. Viruses can only survive by taking over a host

<sup>4</sup> <http://www.oxforddictionaries.com/definition/english/germ>

<sup>5</sup> <http://www.merriam-webster.com/dictionary/germ>

<sup>6</sup> <http://www.mayoclinic.com/>

cell in another creature, so they are constantly looking for animals and humans to infect. They need to be inside living cells to grow and reproduce. Most viruses cannot survive very long if they are not inside a living thing like a plant, animal, or person.

C. **Fungi** are multi-celled (made of many cells), plant-like organisms. Unlike other plants, fungi cannot make their own food from soil, water, and air. Instead, fungi get their nutrition from plants, people, and animals. They thrive in damp, warm places. Most fungi are not dangerous. Examples of something caused by fungi are ringworm and athlete's foot, an itchy rash that develops between the toes.

D. **Protozoa** are one-cell organisms that love moisture and often spread diseases through water. Some protozoa cause intestinal infections that lead to diarrhea, nausea, and belly pain. Some protozoa invade your body through the food you eat or the water you drink. Others, such as malaria, are transmitted by mosquitoes.<sup>7</sup>

39. The test organisms used by SABS laboratory were *Pseudomonas aeruginosa*, *Escherichia coli*, and *staphylococcus aureus*, which are only three species of bacteria. Each of them belongs to a genus having many species. Like *Pseudomonas* is a genus belonging to a family *Pseudomonadaceae* containing 191 validly described species. It is evident that the test of the undertaking was conducted on three species of bacteria and the term used on the packaging of the product is different i.e. Germ. Germ is a much wider term and bacteria are only one form of germs. As the test of the undertaking is conducted only for bacteria, therefore it is inappropriate and deceptive to articulate that:

**'Dettol can kill 99.9% of Germs'**

The accurate statement for the packaging of the product is:

**'Dettol can kill 99.9% of Bacteria (name/ type)'**

40. It is pertinent to mention here that Dettol being an international brand is available all around the world in different packaging. In UK, Dettol has also introduced many products to clean up the floors. It includes floor wipes and multi action all-purpose cleaner. The web site of Dettol in UK reveals that:

*A Dettol clean is complete because it works hard on two levels:<sup>8</sup>  
3X cleansing power- penetrates and lessens kitchen grease,  
Burden on food & bathroom dirt family protection-  
Kills 99.9% of bacteria (including E.coli and influenza virus (H1N1))*

41. The image of Dettol wipes and surface cleanser can be seen on the next page.<sup>9</sup> The packaging clearly mentions whether it can kill only bacteria or also viruses. The packaging also includes the form of bacteria on which they are effective:<sup>10</sup>

<sup>7</sup> <http://kidshealth.org/kid/talk/qa/germs.html#>

<sup>8</sup> <http://www.dettol.co.uk/products-for-your-home-floors-cleansing-floor-wipes>

<sup>9</sup> <http://www.dettol.co.uk/products-for-your-family-protection-against-common-illness-surface-cleanser-trigger>

<sup>10</sup> <http://www.dettol.co.uk/products-for-your-family-protection-against-common-illness-cleansing-surface-wipes>



42. It is clear after reviewing the images of Dettol products available outside the Pakistan that they are using the specific terms (bacteria or virus) on the packaging of the product. Whereas in Pakistan, the undertaking is using a more wider term 'Germs', which deceives the consumers and makes them believe that the product is effective against all kind of germs including viruses and fungi. Further, the undertaking has already acknowledged in its reply that germ includes bacteria and viruses. Therefore, the claim that the product can 'kill 99.9% of germs' is not only capable of harming the business interest of undertakings making surface cleaners, but also amounts to deceive the consumer about the character, properties and quality of their own product and, *prima facie*, violates Section 10 (1) in general and in particular Section 10 (2) (a) & (b) of the Act.

#### **(IV) DETTOL SURFACE CLEANER CAN KILL GERMS 10 TIMES MORE THAN PHENYL:**

43. The undertaking, in order to substantiate this claim, has submitted a report showing a disinfectant efficacy test of Dettol surface cleaner v/s ordinary unbranded phenyl. It is pertinent to mention here that the current advertisement and the voice-over of the advertisement does not contain the words ordinary unbranded phenyl. Moreover, even if a qualifier is added in the advertisement as suggested by the undertaking itself, the voice-over will still be the same that makes the comparison of Dettol surface cleaner with Phenyl. The consumers listening to the TV advertisement while doing work or the one listening to it on radio will continuously get an impression that Phenyl is highly ineffective against germs and the product can kill germs 10 times more than Phenyl.

44. It is interesting that if we see the last two claims together and assume that Dettol surface cleaner can kill germs to 99.9% and it can kill germs 10 times more than Phenyl; it means that Phenyl can kill germs to 9.99% only, which is not true. The advertisement of the product portray Phenyl as a very low and inferior product as compare to dettol surface cleaner. The advertisement in this way provides a misleading comparison of goods in the process of advertisement; prohibited under Section 10 (1) in general and in particular Section 10 (2) (a) (c) of the Act.

#### **FINDINGS AND CONCLUSION:**

45. The undertaking has been involved in the false and misleading comparison of goods by saying that Phenyl is highly ineffective against germs and only Dettol Surface cleaner can kill germs more than Phenyl. The research on Phenyl during the analysis under the heading Phenyl has shown that it works effectively against germs. Moreover, one research has been submitted by the undertaking, which reveals the comparison of Phenyl with their own product only. In the absence of Phenyl comparison with other surface cleaners available in the market, it is not appropriate to say that only Dettol Surface cleaner can kill germs more than Phenyl. Such

comparison is, *prima facie*, not only capable of harming the business interest of other undertakings that are making Phenyl as surface cleaner, but the undertaking is also disseminating information that lacks a reasonable basis about the character, properties and quality of its product and at the same time involved in the misleading comparison of products that amounts to the, *prima facie*, violation of Section 10 (1) in general and in particular Section 10 (2) (a) (b) & (c) of the Act.

46. Further, the undertaking is using a wider term 'Germs' on the packaging of the product to make it more attractive to the consumers. The same products that are available on the international market specify the type of germs against which they are tested. Therefore, it is suggested to use the words 'Dettol can kill 99.9% of Specific Bacteria' (name/type). The undertaking by using the terms 'germs' on the packaging is disseminating false and misleading information that lacks a reasonable basis about the character, properties and quality of its product and is also taking a competitive advantage against the other competitors and hence, *prima facie*, violates Sec 10 (1) in general and in particular Section 10 (2) (a) & (b) of the Act.
47. The undertaking, to substantiate its last claim i.e. Dettol can kill germs 10 times more than Phenyl, has submitted a research report. The report contains data showing that Dettol surface cleaner is more effective than ordinary unbranded phenyl. But if we look at the last two claims together and assume that Dettol surface cleaner can kill germs upto 99.9% and it can kill germs 10 times more than Phenyl; it will be interpreted that Phenyl can kill germs to 9.99% only, which is not true. Moreover, the advertisement involves the comparison of their product with Phenyl, not with ordinary unbranded phenyl. The advertisement in this way provides a misleading comparison of goods in the process of advertisement; prohibited under Section 10 (1) in general and in particular Section 10 (2) (c) of the Act.
48. The undertaking has agreed to add a qualifier in the advertisement i.e. 'Based on a comparison of Dettol Surface Cleaner vs. Ordinary non-branded phenyl" but the same is not applicable. The voice-over of the whole advertisement is entirely different and the advertisement should be viewed as a whole. Consumers listening to the TV advertisement while doing work or while listening to it on radio will continuously get an impression that Dettol Surface Cleaner has been compared with Phenyl and Phenyl is highly ineffective against germs. There is a need to change the voice-over of the advertisement and therefore the same has been communicated by the undersigned enquiry officers, but the undertaking has submitted that they intend to continue with the same voice-over.

#### **RECOMMENDATION:**

49. It is evident that the undertaking, by making the above advertisement is, *prima facie*, entered into deceptive marketing practices in terms of Section 10 (1) of the Act. Furthermore, it is, *prima facie*, distributing false and misleading information that is capable of harming the business interest of other undertakings in terms of Section 10 (2) (a) and is also distributing information to consumers that lacks reasonable basis about the character, properties and quality of its product in terms of Section 10 (2) (b)



of the Act and is also involved in the, *prima facie*, false and misleading comparison of products in terms of Section 10 (2) (c) of the Act.

50. The deceptive marketing practices have a direct impact on the public at large. The undertakings should disclose correct information regarding their product to the consumers. False and misleading advertisements induce the consumers to purchase the product and hence it gives the undertaking a competitive edge over other competing undertakings. Hence, it is in the interest of the public that the undertakings should be stopped from advertising their products in a deceptive manner and be encouraged to resort to advertising practices that are transparent and give consumers/customers true and correct information about the products, rather than making misleading and false claims. It is recommended that a show cause notice be served to the undertaking for, *prima facie*, violation of Section 10 (1) and Section 10 (2) (a) (b) and (c) of the Act.

(Noman Laiq)  
Joint Director  
Enquiry Officer

(Marryum Pervaiz)  
Assistant Director  
Enquiry Officer