

COMPETITION COMMISSION OF PAKISTAN

ENQUIRY REPORT

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

**ENQUIRY IN THE MATTER OF COMPLAINT FILED
BY M/S HIMALAYA GLOBAL HOLDINGS LTD
AGAINST M. ILYAS & SONS (PARTNERS) ALSO
TRADING AS FIAA UNDER SECTION 37 (2) OF THE
COMPETITION ACT, 2010**

BY

KB

A.A

M.A

KASHIF BASHIR, AMIN AKBAR & MEHMOONA ALLAUDDIN

January 23, 2025

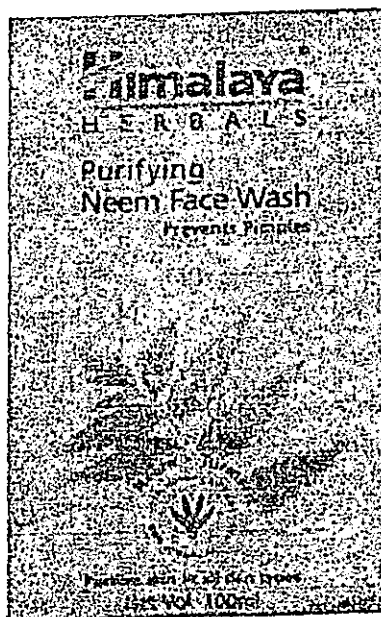
1. BACKGROUND:

- 1.1 M/s Himalaya Global Holdings Ltd (the **Complainant**) filed a complaint before the Competition Commission of Pakistan (the **Commission**) dated 12th December 2024, against M/s. M. Ilyas & Sons (Partners) also trading as 'FIAA' (the **Respondent No. 1**), Mr. Muhammad Ilyas, Partner (the **Respondent No. 2**), Mr. Muhammad Faisal, Partner (the **Respondent No. 3**), Mr. Muhammad Faizan, Partner (the **Respondent No. 4**), Mr. Muhammad Fahad, Partner (the **Respondent No. 5**) and Ms. Shumaila Jahanzaib, Partner (the **Respondent No. 6**), hereinafter collectively referred as (the **Respondents**), for alleged violation of Section 10 of the Competition Act, 2010 (the **Act**), which prohibits deceptive marketing practices.
- 1.2 It was alleged in the complaint that the Respondents are using the distinctive trade dress of Himalaya Neem Face Wash of the Complainant, hence distorting competition in the market. The Complainant believes that by doing so, the Respondents can affect consumer buying and have distorted healthy competition in the market.
- 1.3 The enquiry was initiated dated May 23, 2025, in accordance with sub-section (2) of Section 37 of the Act by appointing Mr. Muhammad Fahad, Joint Director (OFT), as the Enquiry Committee. Subsequently, upon the transfer of the existing enquiry officer, the Enquiry Committee was reconstituted, and Mr. Amin Akbar, Assistant Director (OFT), and Ms. Mehmoona Allauddin, Assistant Director (OFT), were appointed as Enquiry Officers. Later on, the enquiry committee was again re-constituted by appointing Mr. Kashif Bashir, Deputy Director (OFT), (collectively the **Enquiry Officers/ Enquiry Committee**) to conduct the enquiry.
- 1.4 The Enquiry Committee was directed to conduct the enquiry on the issues raised in the complaint, and to submit their enquiry report by giving their findings and recommendations, *inter alia*, on the following:
- Whether the Respondents are violating Section 10 (1) of the Act, in terms of Section 10 (2) (d) of the Act, which prohibits fraudulent use of another's trademark, firm name, or product labeling or packaging; and/or*
 - Whether the Respondents are disseminating false and 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, prima facie, in violation of Section 10(1) in general and in particular, Section 10 (2)(b) of the Act.*
 - Whether the conduct of the Respondents is capable of harming the business interest of other undertakings in prima facie, violation of Section 10 (2)(a) of the Act?*
 - Whether there is a spillover effect of the conduct of the Respondents?*

2. THE COMPLAINT:

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- 2.1 The Complainant stated that it is one of the leading herbal healthcare companies established in 1930¹, engaged in the manufacturing and marketing of Ayurvedic herbal tradition into a complete range of proprietary formulations dedicated to healthy living and longevity.
- 2.2 Himalaya Global Holdings Ltd. is the parent holding company of the Himalaya Wellness group, a global herbal healthcare and personal care business rooted in Ayurveda and modern scientific research. Founded from a legacy that began in 1930 with natural herbal remedies, the company has grown into a diversified wellness enterprise offering a broad range of products that span pharmaceuticals, personal and baby care, face and body care, oral care, men's care, general health and nutritional supplements, and animal health solutions. It focuses on developing high-quality, scientifically validated herbal products for consumers worldwide, combining traditional botanical knowledge with modern science, and operates through subsidiaries and regional offices across multiple countries. The brand emphasizes sustainability, research-driven product innovation, and a "head-to-heel" approach to wellness.²
- 2.3 The Complainant further stated that its array of products includes face washes of its iconic and famous house mark/trademark HIMALAYA and HIMALAYA NEEM FACE WASH under which the Complainant sells its products, which is in high demand due to its high quality. The trade dress of the Complainant's Himalaya Herbal Neem Face Wash is depicted below:



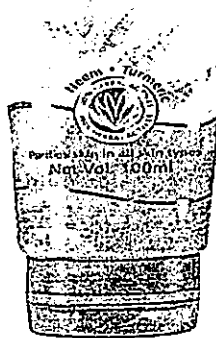
Furthermore, the trade dress is also registered as copyright in India under copyright No. A-11893/2017. Since Pakistan is a member of the Berne and universal conventions, and any copyright registered by countries signatory to these conventions is recognized in Pakistan under the provisions of the International Copyright Order 1968. Consequently, the Complainant's artwork is protected in Pakistan.

¹ https://himalayawellness.in/pages/our-story?srltid=AfmBQooqJFcirH06-30bTofZZST93u9rAknz3ghC3_t2rqLePEAOYewV

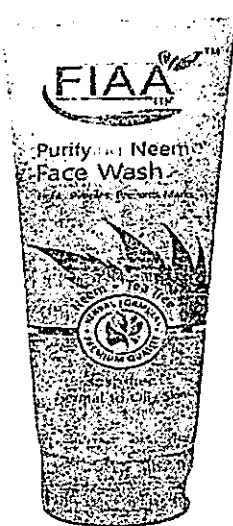
² <https://himalayaglobalholdings.com/>.

- 2.4 The Complainant stated that its Himalaya Neem Face Wash (depicted in the image below) is extensively used in the world and by virtue of its excellent quality, it is famous among consumers.

Himalaya
HERBALS
Purifying
Neem Face Wash
Prevents Pimples



- 2.5 The Complainant further stated that its registered trademarks bearing Nos. 432062 (Himalaya Since 1930), and 188429 (Himalaya Herbals) falling under class 3 of the International Nice Classification of Goods and Services are also registered in Pakistan.
- 2.6 It is further stated by the Complainant that the Respondents are engaged in the business of manufacturing facewash and other personal care products under the brand name FIAA.
- 2.7 The Complainant claims that the Respondents have unlawfully imitated the Complainant's distinctive trade dress, color scheme, and packaging design. The Complainant's packaging and design elements are closely associated with their brand, which is famous for its high quality and consumer trust. The Respondent's impugned artwork, which is deceptively similar to the Complainant's face wash packaging, is depicted below:



- 2.8 The Complainant stated that it has invested substantial resources in branding, advertising, and promoting its products. The Respondents' actions, however, infringe upon the Complainant's intellectual property rights, including its registered trademark in Pakistan and its copyright registration in India. This has resulted in a deceptive product offering that could mislead consumers into believing that the Respondent's products are associated with the Complainant's well-established brand.
- 2.9 Despite the Complainant's efforts to amicably resolve the problem by issuing a cease and desist letter on January 5, 2024, the Respondents have not taken sufficient action to stop the infringement. Therefore, the Complainant seeks intervention from the Competition Commission of Pakistan to halt these unfair trade practices and preserve fair competition in the market.
- 2.10 The Respondents' product involves packaging and labeling that closely resemble the Complainant's copyrighted Himalaya Neem Face Wash. Such imitation includes the color scheme, design layout, and overall presentation of the product, which is likely to cause confusion and deceive consumers into believing that the Respondent's product is associated with, or endorsed by the Complainant. These actions constitute deceptive marketing practices and amount to unfair competition in violation of Section 10 of the Competition Act, 2010 (the Act).
- 2.11 The Complainant alleged that the Respondents' actions fall squarely within the scope of Deceptive Marketing Practices as defined under Section 10(1) of the Act. Specifically, the Respondents are accused of copying the Complainant's trade dress, packaging, layout, and color schemes, which are protected under copyrights registrations. Such conduct is likely to create confusion among consumers by misleading them into believing that the Respondent's products are associated with the Complainant. The Complainant contends that the Respondent's conduct constitute violation of Section 10(2) (a) and Section 10(2) (d) of the Act, respectively.
- 2.12 The Complainant alleged that the Respondents' actions fall squarely within the scope of Deceptive Marketing Practices as defined under Section 10(1) of the Act. Specifically, the Respondents are accused of copying the Complainant's trade dress,

packaging, layout, and color schemes, which are registered as copyrights. These actions are deemed to create confusion among consumers by misleading them into believing that the Respondent's products are associated with the Complainant. The Complainant contends that the Respondent's conduct violates Section 10(2)(a) and Section 10(2)(d), respectively.

2.13 In light of the above submissions, the Complainant seeks the following reliefs:

- i. The Complainant requests that the Hon'ble Commission conducts an inquiry under Regulation 16 of the Competition (General Enforcement) Regulations, 2007 against the Respondents for committing acts of Deceptive Marketing Practices in violation of Section 10(1) of the Act, and the provisions of Section 10(2) (a), Section 10(2) (b), and Section 10(2) (d) of the Act.
- ii. The Complainant further seeks the initiation of proceedings under Section 30 of the Act in accordance with the procedure set forth therein.
- iii. The Complainant requests an order restraining the Respondents permanently from engaging in any Deceptive Marketing Practices, including the manufacturing, sale, distribution, marketing, advertisement, and export of contravening products bearing confusingly similar trade dress and imitating the Complainant's product packaging, in violation of Section 10(1), Section 10(2) (d), Section 10(2)(a), and Section 10(2)(b) of the Act.
- iv. The Complainant seeks an order directing the Respondents to remove all promotional, advertising, or printed materials, including materials posted on the Respondent's website and other e-marketing channels, which display the infringing product labeling and packaging that imitate the Complainant's registered design.
- v. Cease Displaying Infringing Content: The Complainant requests an order requiring the Respondents to take down all infringing visual content of its products from electronic media, including websites, e-commerce platforms, social media pages, and print media, or any other medium used to promote or disseminate the Respondent's products.

2.14 It is also pertinent to mention here that vide letter dated September 01, 2025, the Complainant submitted that the image reproduced in para 2.04 above does not belong to Pakistan and it is not the representation of the Complainant's product. The Complainant further clarified that it uses the following packaging in Pakistan, which has been replicated by the Respondents.



3. SUBMISSIONS OF THE RESPONDENTS:

- 3.1 The complaint was forwarded to Respondents for comments on June 17, 2025. Upon non-receipt of the response, a reminder dated July 01, 2025, was sent to the Respondents. However, despite of no response from the Respondents, another reminder was issued dated July 14, 2025. Regardless of no response a final opportunity was given to the Respondents vide letter dated August 12, 2025 to submit their reply.
- 3.2 With reference to para 2.13 above, the Respondents were also intimated vide letter dated November 12, 2025, that Complainant has changed the alleged product and a copy of the changes was shared with the Respondents.
- 3.3 Notwithstanding all the correspondence with the Respondents, no response has been received from the Respondents.

4. ANALYSIS:

- 4.1 As mentioned in para 3.1 to 3.3 above, no response has been received from the Respondents; therefore, the enquiry committee has decided to move Ex-parte.
- 4.2 As mentioned in para 1.3 above, the mandate of this enquiry is to find out whether, *prima facie*:
- i. *The Respondents are violating Section 10 (1) of the Act, in terms of Section 10 (2) (d) of the Act, which prohibits fraudulent use of another's trademark, firm name, or product labeling or packaging; and/or*
 - ii. *Whether the Respondents are disseminating false and 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, prima facie, in violation of Section 10(1) in general and in particular, Section 10 (2)(b) of the Act.

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

iv. *Whether there is a spillover effect of the conduct of the Respondents?*

I. WHETHER THE RESPONDENTS ARE VIOLATING SECTION 10(1) OF THE ACT, IN TERMS OF SECTION 10 (2) (D) OF THE ACT, WHICH PROHIBITS FRAUDULENT USE OF ANOTHER'S TRADEMARK, FIRM NAME, OR PRODUCT LABELING OR PACKAGING.

4.3 It is mentioned on the Complainant's official website that it launched its Neem face wash in 2001.³ The Complainant also registered its trademark "Himalaya Herbals" in 2003 and "Himalaya Since 1930" in Pakistan in 2016 under class 3 of the International Nice Classification of goods and services.

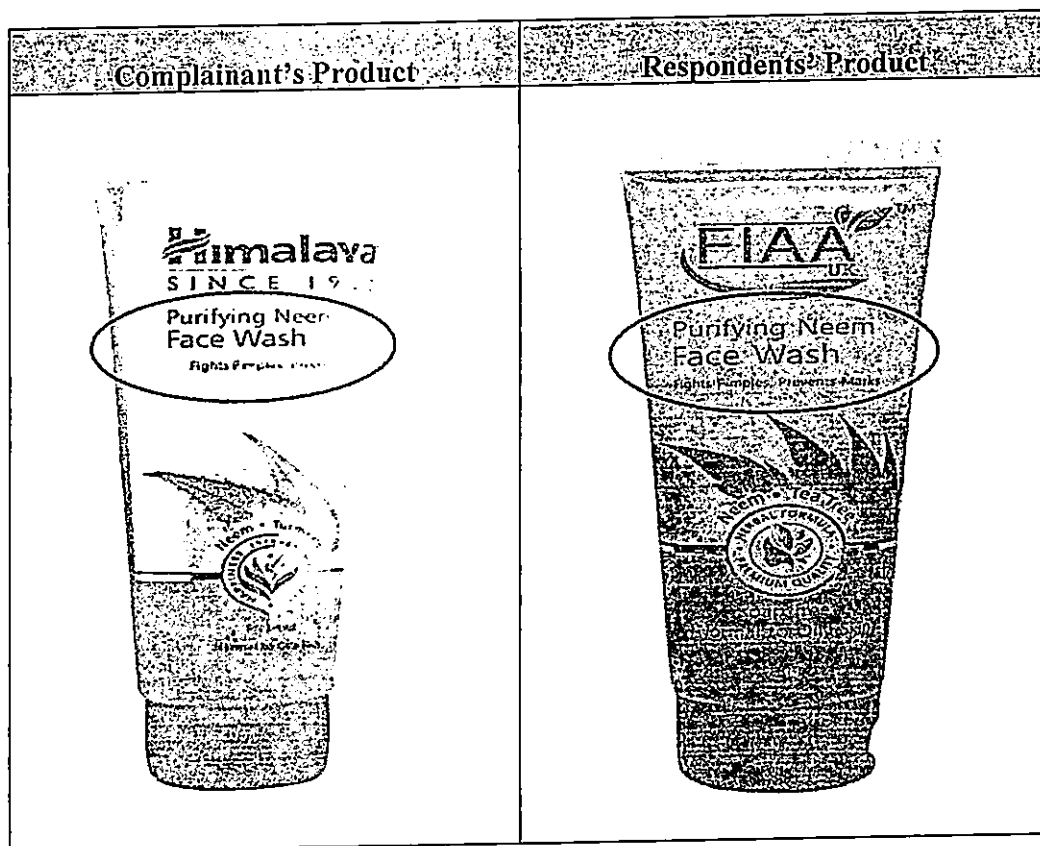
4.4 While the Respondents filed for the registration of their trademark "FIAA" in 2024. (Copy of the application applied in the Intellectual Property Organization by the Respondents is attached as Annexure-A). Apart from that, no information is available to determine when the Respondents launched their said product in the market. Thus, *prima facie*, it appears that the Complainant is a well-established, prior company with a recognized brand name and a presence in the relevant industry.

4.5 The Complainant submitted that the Respondents' product features packaging and labeling that closely resemble the Complainant's *Himalaya Neem Face Wash*. Including its color scheme, design layout, and overall presentation. While no evidence has been submitted to show that the packaging of *Himalaya Neem Face Wash* is registered, it is claimed that the said packaging has been in use in Pakistan since 2017, and a media plan dated October 2017 has been provided. A screenshot of the TVC from the same media plan is depicted below.

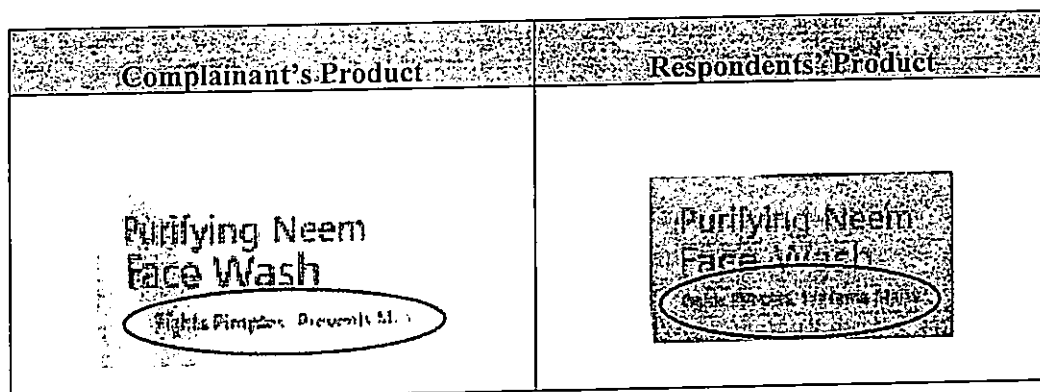


³ <https://himalaya-global-holdings.com/pages/milestones>

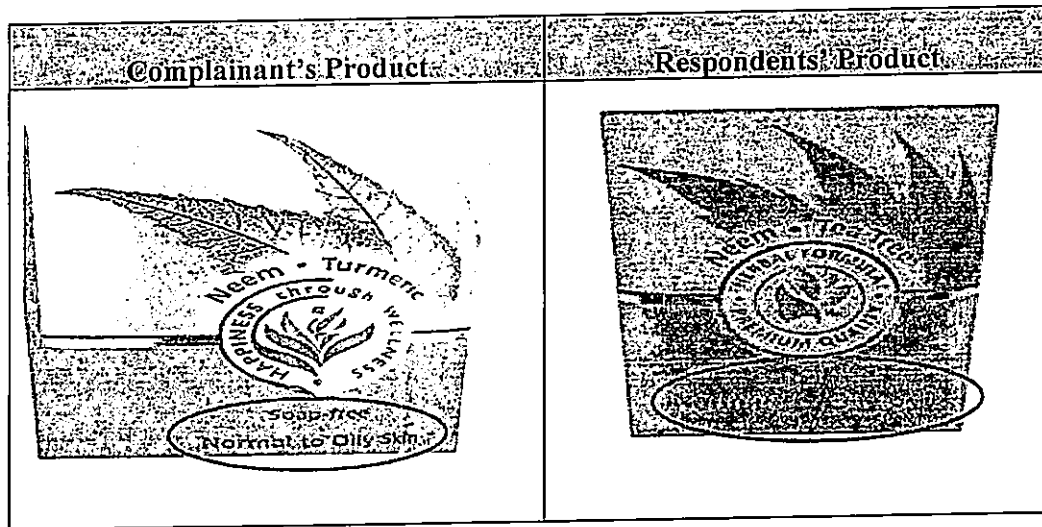
- 4.6 Below is the packaging of both the Complainant and the Respondents' Neem Face Washes:



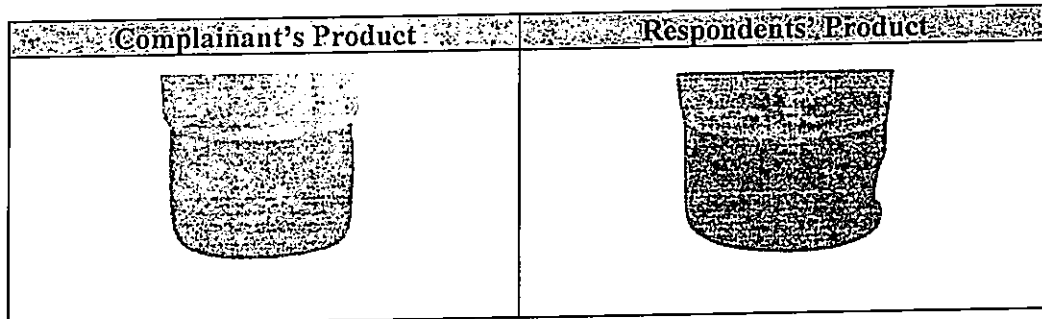
- 4.7 The brand name of the Complainant **Himalaya** ^{SINCE 1930} and the Respondents' **FIAA** ^{UR} are distinct on their respective packaging. However, upon further examination of both the products, it can be seen that the Respondent's product title, "Purifying Neem Face Wash", is presented in a similar font style, size, and alignment to the Complainant's. Following the same "Fights Pimples, Prevents Marks".



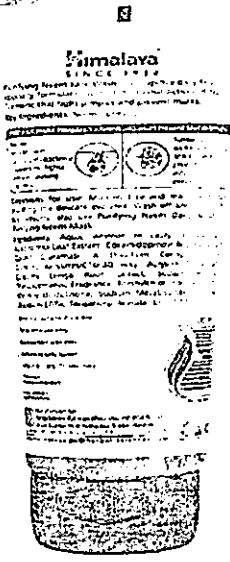
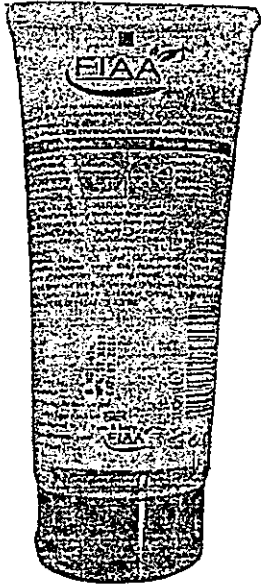
- 4.8 Another notable similarity lies in the central placement of neem leaf graphics on the packaging. Both products prominently feature the same neem imagery at the center of the tube, reinforcing the herbal positioning of the product. And beneath it, both have the same wording, "soap-free," followed by "Normal to Oily Skin," in green color.



- 4.9 Further resemblance can be observed in the structural design of the packaging. Both products use a green flip-top cap and a transparent section that reveals green-colored gel, which adds to the visual similarity. These elements are not merely functional; they contribute to the overall identity of the product. The cumulative effect of using the same cap color, tube material, and visible gel creates an impression of similarity between the two brands.



- 4.10 Respondents' packaging incorporates herbal or medicinal visual cues, such as a neem and tea tree emblem, which align with the thematic presentation established by the Complainant. When all these elements are viewed together, color scheme, layout, graphics, product name, and thematic symbolism, they suggest more than coincidental similarity.
- 4.11 The overall layout on the back of both products (as depicted in the images below) is also very similar: the ingredient list, usage instructions, icons, and even the small graphical elements appear in almost identical positions. Both tubes employ a green-themed color palette, similar font sizes, and comparable illustrations of natural ingredients, resulting in a similar visual identity at first glance.

Complainant's Product	Respondent's Product
	

- 4.12 Because the structure and placement of information are so closely matched, an ordinary consumer, who usually does not read every line carefully, is likely to assume that both products are related or from the same brand category. This kind of similarity in packaging design can therefore mislead or confuse customers, especially when they rely mainly on quick visual cues rather than detailed label checking.

- 4.13 In view of the similarities stated above, the Enquiry Committee can safely conclude that the Respondents copied the trade dress of the Complainant's product, hence, *prima facie* violate section 10 (1) read with Section 10 (2)(d) of the Act.

II. WHETHER THE RESPONDENTS ARE DISSEMINATING FALSE AND 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, PRIMA FACIE, IN VIOLATION OF SECTION 10(1) IN GENERAL AND IN PARTICULAR, SECTION 10 (2)(B) OF THE ACT.

- 4.14 A visual comparison of the two products in para 4.6 to 4.12 above shows that the Respondents have adopted a strikingly similar overall get-up and design style to that of Complainant's Purifying Neem Face Wash. The similarity is not limited to the use of neem as an ingredient, which many brands may use, but extends to the presentation and communication style through which the product's character and properties are portrayed. Both products exhibit the same green gradient layout, the same placement of text, the same claim structure, and the same visual representation of neem leaves. Such

a level of similarity goes beyond coincidence and indicate an attempt to replicate the established look and feel associated with Complainant's product.

- 4.15 In terms of character, both packages convey an identical identity for the product: a herbal, Neem-based, pimple-fighting face wash. The Respondents communicates this character in nearly the same visual manner as Complainant's, through the same headline "*Purifying Neem Face Wash*," identical benefit claims. The ordinary consumer not only read claims; they form impressions from the design language. Respondent's replication of this design language can cause a consumer to assume similarity in the product's character as well as an affiliation or origin link.
- 4.16 With respect to the product properties, both packages emphasize the same functional highlights: soap-free, purifying, suitable for normal to oily skin, and helpful for pimples and marks. However, Respondents have presented these properties in a design format that imitates Complainant's style, rather than simply stating similar skincare benefits. By copying the structure, layout, and visual hierarchy through which Complainant communicates its product properties, Respondents strengthen the impression that their product has identical or comparable properties to the Complainant's product.
- 4.17 The cumulative effect of this design-level imitation is that an ordinary consumer could be confused. Most consumers do not perform detailed evaluation of ingredients or brand identity; instead, they identify products based on their overall appearance, color scheme, layout, imagery, property claims placement, and packaging shape. When all these elements are replicating each other in such a close manner, consumers may reasonably mistake Respondents' product as being associated with Complainant's due to the near-identical presentation, hence *prima facie* violating section 10(2)(b) of the Act.

III. WHETHER THE CONDUCT OF THE RESPONDENTS IS CAPABLE OF HARMING THE BUSINESS INTEREST OF OTHER UNDERTAKINGS IN, PRIMA FACIE, VIOLATION OF SECTION 10 (2(A) OF THE ACT?

- 4.18 The Complainant, in its complaint, has submitted that a fraudulent adoption of its trademark is in clear contravention of the Act. It is further alleged that such adoption by the Respondents is intended to cause grave injury to the Complainant's established reputation in the market and to unfairly damage the goodwill associated with the Complainant's brand, thereby diverting consumer attention and causing undue harm to the Complainant's products and offerings.
- 4.19 The Enquiry Committee vide letter dated December 01, 2025, sought clarification from the Complainant regarding the quantum of loss and/or harm allegedly suffered as a consequence of the Respondents' conduct. In response, the Complainant vide letter dated December 09, 2025, has submitted that the conduct of the Respondents caused loss of sales in key market areas. The Complainant further stated in the letter that the most significant loss occurred in the Punjab region, a core market for the Complainant's business, where the confusion surrounding the Respondent's product has led to a reduction in the Complainant's product sales. While the financial loss is not easily quantifiable due to the nature of the distribution system, it is evident that reputational damage has resulted from the confusion.

- 4.20 The Enquiry Committee further observes that, although the Complainant has not furnished any objective or verifiable evidence demonstrating that the Respondents' conduct has resulted in actual diversion of sales or a measurable impairment of its business operations in Pakistan. However, in matters relating to injury to goodwill and reputation, proof of actual harm is not a prerequisite. The statutory test under Section 10(2)(a) of the Act is whether the impugned conduct is *capable* of harming the business interests of another undertaking. The capability to cause harm, rather than proof of quantifiable loss, is sufficient to constitute a violation under the said provision.
- 4.21 Accordingly, the Enquiry Committee concludes that the Respondents' alleged conduct is capable of causing competitive injury of the nature contemplated under Section 10(1) read with Section 10(2)(a) of the Act.

IV. WHETHER THERE IS A SPILLOVER EFFECT OF THE CONDUCT OF THE RESPONDENT?

- 4.22 The Respondents maintain a nationwide presence, not only through their operations in multiple major cities but also through their digital footprint. Its marketing and promotional content is widely disseminated across social media platforms such as Facebook, Instagram, and other digital channels. Consequently, the Respondents' conduct has a spillover effect.

5. CONCLUSIONS AND RECOMMENDATIONS

- 5.1 Based on the information available on record and the submissions made by the parties, the Enquiry Committee has concluded that, *prima facie*, both the products of the Complainant and the Respondents exhibit similarities in their trade dress for marketing their products which are sufficient to create an association between the Respondents' and product Complainant's, product especially when the Complainant holds worldwide presence, thereby, *prima facie* amounts to violation of section 10(1) read with section 10(2)(d) of the Act.
- 5.2 The Respondents are also disseminating false and/or misleading information to consumers regarding the character, method or place of production, properties, suitability for use, and quality of goods pertaining to the use of a trademark similar or deceptively similar to that of the Complainant and hence, *prima facie*, amounts to violation of section 10(1) read with section 10(2)(b) of the Act.
- 5.3 Although the Complainant has failed to provide evidence of any harm caused by the Respondents' use of a trade dress similar or deceptively similar to the trade dress of the Complainant. The Respondents nevertheless appear to be involved in the distribution of false and/or misleading information, which is capable of harming the business interest of the Complainant. Hence, the case of deceptive marketing practices in terms of section 10(1) read with section 10(2)(a) of the Act is established.
- 5.4 The act of the Respondents are not confined to one single province and thus have a spillover effect beyond provincial boundaries.
- 5.5 Therefore, in light of the above mentioned findings, it is recommended that the Commission may consider initiation of proceedings against M/s. M. Ilyas & Sons also trading as 'FIAA' (the Respondent No. 1), Mr. Muhammad Ilyas, Partner (the

Respondent No. 2), Mr. Muhammad Faisal, Partner (the **Respondent No. 3)**, Mr. Muhammad Faizan, Partner (the **Respondent No. 4)**, Mr. Muhammad Fahad, Partner (the **Respondent No. 5)** and Ms. Shumaila Jahanzaib, Partner (the **Respondent No. 6)** under section 30 of the Act for, *prima facie*, violation of section 10(2)(d), (b), and (a) of the Act.



Kashif Bashir
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(Enquiry Officer)



Amin Akbar
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(Enquiry Officer)



Mehmoona Allauddin
Assistant Director (OFT)
(Enquiry Officer)