## THENEWS

13 November 2013 Page # 17

### CCP's show cause notice to IMC disposed

#### By our correspondent

ISLAMABAD: The Competition Commission of Pakistan (CCP) has disposed of a show cause notice issued to the Indus Motor Company Limited (IMC) after its compliance with the provisions of the Competition Act, 2010 by addressing the concerns related to the booking order, The News has learnt.

The customers had raised concerns about the booking order issued by the Indus Motor Company for the purchase of a new car.

The CCP, after scrutiny of the booking order, found the terms and conditions unfair. The commission, therefore, had issued a show cause notice to the company.

However, during the course of hearing, the IMC had requested the bench sometime to amend the terms and conditions of its booking order and submitted a revised draft of the booking order in line with the competition laws.

Initially, the IMC had sole and absolute discretion to accept or reject the request of the cancellation by a buyer. And, if bfor some reasons the company cfailed to deliver the vehicle on

time the buyer could not cancel the contract. A buyer was bound to take delivery of the vehicle or full payment.

According to the rectified document, a customer can now cancel the order in case of an unsatisfactory change in price or delivery schedule without bearing extra charges.

The compulsion on a buyer to accept increased cost, new requirements, and reduced benefits has been removed in the new terms and conditions.

Earlier, the managing director of the IMC was to give a decision on a dispute between the carmaker and a customer. Now, an arbitrator will be responsible to resolve the matter under the arbitration Act 1940 of Pakistan.

As per the old terms and conditions, Indus Motors held the sole right to change the design and construction specification without any notice to buyers.

Now, the company may make minor alteration to the design and construction specification of the vehicle as required by any federal and/or provincial legislation. A new policy said the company can revise the prices only when there is a currency fluctuation and/or changes in levies and taxes.



13 November 2013 Page # 09

## **CCP** disposes of show cause notice issued to Indus Motor

competition concerns in the Booking ing: Order.

cause notice in this regard.

Limited after compliance by the com- Act. Terms and conditions which have based on an unsatisfactory change in pany with the provisions of the been rectified by M/s Indus Motor price or delivery schedule.

#### CANCELLATION RIGHTS

customers regarding the Booking initially the Indus Motor had sole and the customer to cancel the booking at amended to refer such dispute to an Vehicle, and make such alterations in will require the commitment and con-Order issued by Indus Motor absolute discretion to accept or reject no extra expense if the consumer is Arbitrator to resolve and settle the vehicle as required by any federal tribution by all parties. CCP is appre-Company for purchase of a new car, the request of cancellation by the not satisfied with any changes made in matter under the Arbitration Act 1940 or provincial legislation. Scrutiny of Booking Order revealed buyer. If for some reasons Indus the initial agreement pertaining to of Pakistan, thus giving fair and equal that terms and conditions mentioned. Motors failed to deliver the vehicle as price or delivery schedule. therein appear to be unfair trading ordered or on time, the buyer could not Right to the Alter Terms conditions imposed on customers in cancel the contract. It was at the entire Under the original PBO, Indus Change in Design/Specification change price of the vehicle without Since its establishment. CCP has terms of Section 3(3)(a) of the discretion of the Indus Motor and the Motor had the sole right to alter some without Notice

ISLAMABAD: The Competition amend the terms and conditions of its unilateral right to reject the is therefore considered unfair whether to supply. During the hearing it was paid, This lacuna has been removed

#### DISPUTE RESOLUTION

right to both parties i.e. the buyer and Indus Motor.

Commission of Pakistan (CCP) has booking order and submitted a revised request for cancellation by the buver or not it is meant to be used in that explained to the bench that change in by explicitly mentioning in the revised disposed of a show cause notice draft of Booking Order in compliance but also waving off any charges in way. This clause has been completely specifications of the vehicle could take draft PBO that revision of prices issued to Indus Motor Company of the provisions of the Competition case the application for cancellation is removed from the revised draft PBO. place due to constant advancement in would only be subject to a change, if

Similarly, another condition where- the government. In light of this discus- currency fluctuation. Competition Act 2010 by addressing Company Limited include the follow- Such rectification made by Indus by any dispute between the customer sion, PBO was revised which specifi- CCP is geared to create a level play-Motors has put the consumer at an and Indus Motor company was to be cally mentions that Indus Motor may ing field for all businesses in the counequal footing with regard to the aspect conclusively decided by the Managing make minor alterations to the design try. Shaping a constructive, effective CCP received concerns raised by Regarding cancellation of booking, of cancellation by leaving room for Director of Indus Motors has been and construction specification of the and responsive competition regime

#### RIGHT TO CHANGE PRICE WITHOUT NOTICE

Indus Motor had the sole right to ance with the Competition Act.

Competition Act 2010. Indus Motor buyer would be bound to take delivery or all terms and conditions of PBO Initially, Indus Motors held the sole This clause created uncertainty as to positive outcome of which is that Company Limited was issued show of the vehicle on full payment for the and also the right to interpret them right to change the design, construc- price and buyer was not sure of how businesses are rectifying their antisame. Cancellation right is an impor- conclusively. Having such a clause in tion specification without notice to much extra amount is to be paid at the competitive practices/behaviour and During the course of hearing, M/s tant tool that creates balance among the contact can be used to force the buyers. Such clause gave power to time of delivery for getting what he or are integrating competition compli-Indus Motor Company Limited the parties, Indus Motors has rectified buyer to accept increased costs, new Indus Motor to substitute something she has been promised even though ance into their corporate governance requested the bench to allow them to this imbalance not only by relinquish-requirements, or reduced benefits, and different for what it has actually agreed the consideration has already been framework.-PR

technology or under the direction of any, in government levies/taxes or

ciative of prompt response and diligent efforts by M/s Indus Motors Company Limited to resolve the issue in compli-

notice to buyer at the time of delivery. . been focused on corrective behavior, a



Page #13 13 November 2013

## **CCP** ensures compliance by Indus Motor Co

#### STAFF REPORTER

ISLAMABAD-The Competition Commission of Pakistan 3(3)(a) of the Competition Act, tor had sole and absolute discre-(CCP) has disposed off a show 2010. Indus Motor Company tion to accept or reject the recause notice issued to Indus limited was issued Show Cause quest of cancellation by the Motor Company Limited after Notice in this regard. compliance by the company with the provisions of the Com- ing, M/s Indus Motor Company vehicle as ordered or on time, petition Act, 2010 by address- Limited requested the Bench to the buyer could not cancel the ing competition concerns in the allow them to amend the terms contract. It was at the entire dis-

Indus Motor Company for pur- Competition Act. Terms and cellation right is an important chase of a new car. Scrutiny of conditions which have been rec-booking order revealed that tified by M/s Indus Motor Com-the parties. Indus Motors has terms and conditions mentioned pany Limited include the fol-

therein appear to be unfair trad- lowing: ing conditions imposed on customers in terms of Section booking, initially the Indus Mo-

Regarding cancellation of buyer. If for some reasons Indus During the course of hear- Motors failed to delivered the and conditions of its booking cretion of the Indus Motor and Booking Order. and conditions of its booking cretion of the Indus Motor and CCP received concerns order and submitted a revised the buyer would be bound to raised by customers regarding draft booking order in compli-the Booking Order issued by ance of the provisions of the full payment for the same. Can-

Continued on Page 14

### CCP ensures compliance

#### From Page 13

rectified this imbalance not only by relinquishing its unilateral right to reject the request for cancellation by the buyer but also waving off any charges in case the application for cancellation is based on an unsatisfactory change in price or delivery schedule.

Such rectification made by Indus Motors has put the consumer at an equal footing with regard to the aspect of cancellation by leaving room for the customer to cancel the booking at no extra expense if the consumer is not satisfied with any changes made in the initial agreement pertaining to price or delivery schedule.

Under the original PBO, Indus Motor had the sole right to alter some or all terms and conditions of PBO and also the right to interpret them conclusively. Having such a clause in the contact can be used to force the buyer to accept increased costs, new requirements, or reduced benefits, and is therefore considered unfair whether or not it is meant to be used in that way. This clause has been completely removed from the revised draft PBO.



#### Page # B2

13 Nov 2013

Provisions of competition law

# CCP satisfied with compliance by IMC in 'booking order'

#### Staff Report

**ISLAMABAD:** The Competition Commission of Pakistan (CCP) has disposed of a show-cause notice issued to Indus Motor Company (IMC) after compliance by the company with the provisions of the Competition Act, 2010 by addressing competition concerns in the booking order.

CCP received concerns raised by customers regarding the booking order issued by IMC for purchase of a new car. Scrutiny of booking order revealed that terms and conditions mentioned therein appear to be unfair trading conditions imposed on customers in terms of Section 3(3)(a) of the Competition Act, 2010. IMC was issued a showcause notice in this regard.

During the course of hearing, IMC requested the bench to allow them to amend the terms and conditions of its booking order and submitted a revised draft booking order in compliance of the provisions of the Competition Act.

IMC rectified the terms and conditions.

Cancellation rights: Regarding cancellation of booking, initially the IMC had sole and absolute discretion to accept or reject the request of cancella-tion by the buyer. If for some reasons IMC failed to deliver the vehicle as ordered or on time, the buyer could not cancel the contract. It was at the entire discretion of the IMC and the buyer would be bound to take delivery of the vehicle on full payment for the same. Cancellation right is an important tool that creates balance among the parties. IMC has rectified this imbalance not only by relinquishing its unilateral right to reject the request for cancellation by the buyer but also by waving off any charges in case the application for cancellation is based on an unsatisfactory change in price or delivery schedule.

Such rectification made by IMC has put the consumer at an equal footing with regard to the aspect of cancellation by leaving room for the customer to cancel the booking at no extra expense if the consumer is not satisfied with any changes made in the initial agreement pertaining to price or delivery schedule.

Right to the alter terms: Under the original PBO, IMC had the sole right to alter some or all terms and conditions of PBO and also the right to interpret them conclusively. Having such a clause in the contact can be used to force the buyer to accept increased costs, new requirements, or reduced benefits, and is therefore considered unfair whether or not it is meant to be used in that way. This clause has been completely removed from the revised draft PBO.

**Dispute resolution:** Similarly, another condition whereby any dispute between the customer and IMC was to be conclusively decided by the IMC managing director has been amended to refer such dispute to an arbitrator to resolve and settle the matter under the Arbitration Act 1940 of Pakistan, thus giving fair and equal right to both parties - the buyer and IMC.

Change in design/specification without notice: Initially, IMC held the sole right to change the design, construction specification without notice to buyers. Such clause gave power to IMC to substitute something different for what it has actually agreed to supply. During the hearing it was explained to the bench that change in specifications of the vehicle could take place due to constant advancement in technology or under the direction of the government. In light of this discussion, PBO was revised which specifically mentions that IMC might make minor alterations to the design and construction specification of the vehicle, and make such alterations in the vehicle as required by any federal and/or provincial legislation.

Right to change price without notice: IMC had the sole right to change price of the vehicle without notice to buyer at the time of delivery. This clause created uncertainty as to price and buyer was not sure of how much extra amount is to be paid at the time of delivery for getting what he or she has been promised even though the consideration has already been paid. This lacuna has been removed by explicitly mentioning in the revised draft PBO that revision of prices would only be subject to a change, if any, in government levies/taxes and/or currency fluctuation.

CCP is geared to create a level-playing field for all businesses in the country. Shaping a constructive, effective and responsive competition regime will require the commitment and contribution by all parties. CCP is appreciative of prompt response and diligent efforts by IMC to resolve the issue in compliance with the Competition Act.

Since its establishment, CCP has been focused on corrective behaviour, a positive outcome of which is that businesses are rectifying their anti-competitive practices/behaviour and are integrating competition compliance into their corporate governance framework.

The Nation on Web The Nation Page # 09

13 November 2013

## CCP disposes of IMC show-cause notice

OUR STAFF REPORTER ISLAMABAD

The Competition Commission of Pakistan (CCP) has disposed off a show cause notice issued to Indus Motor Company Limited after compliance by the company with the provisions of the Competition Act, 2010 by addressing competition concerns in the Booking Order.

CCP received concerns raised by customers regarding the Booking Order issued by Indus Motor Company for purchase of a new car. Scrutiny of booking order revealed that terms and conditions mentioned therein appear to be unfair trading conditions imposed on customers in terms of Section 3(3)(a) of the Competition Act, 2010. Indus Motor Company limited was issued Show Cause Notice in this regard.

During the course of hearing, M/s Indus Motor Company Limited requested the Bench to allow them to amend the terms and conditions of its booking order and submitted a revised draft booking order in compliance of the provisions of the Competition Act. Terms and conditions which have been rectified by M/s Indus Motor Company Limited include the following: Regarding cancellation of booking, initially the Indus Motor had sole and absolute discretion to accept or reject the request of cancellation by the buyer. If for some reasons Indus Motors failed to de-

liver the vehicle as ordered or on time, the buyer could not cancel the contract. It was at the entire discretion of the Indus Motor and the buyer would be bound to take delivery of the vehicle on full payment for the same. Cancellation right is an important tool that creates balance among the parties. Indus Motors has rectified this imbalance not only by relinquishing its unilateral right to reject the request for cancellation by the buyer but also waving off any charges in case the application for cancellation is based on an unsatisfactory change in price or delivery schedule.

Such rectification made by Indus Motors has put the consumer at an equal footing with regard to the aspect of cancellation by leaving room for the customer to cancel the booking at no extra expense if the consumer is not satisfied with any changes made in delivery schedule.

Under the original PBO, Indus Motor had the sole right to alter some or all terms and conditions of PBO and also the right to interpret them conclusively. Having such a clause in the contact can be used to force the buyer to accept increased costs, new requirements, or reduced benefits, and is therefore considered unfair whether or not it is meant to be used in that way. This clause has been completely removed from the revised draft PBO.

Similarly, another condition whereby any dispute between the customer and Indus Motor company was to be conclusively decided by the Managing Director of Indus Motors has been amended to refer such dispute to an Arbitrator to resolve and settle the matter under the arbitration Act 1940 of Pakistan, thus giving fair and equal right to both parties i.e. the buyer and Indus Motor.

Initially, Indus Motors held the sole right to change the design, construction specification without notice to buyers. Such clause gave power to Indus Motor to substitute something different for what it has actually agreed to supply. During the hearing it was explained to the Bench that change in specifications of the vehicle could take place due to constant advancement in technology or under the direction of the government. In light of this discussion, PBO was revised which specifically mentions that Indus Motor may make minor alterations to the design and construction specification of the initial agreement pertaining to price or - the Vehicle, and make such alterations in the vehicle as required by any Federal and/or Provincial legislation.

> Indus Motor had the sole right to change price of the vehicle without notice to buyer at the time of delivery. This clause created uncertainty as to price and buyer was not sure of how much extra amount is to be paid at the time of delivery for getting what he or she has been promised even though the "consideration" has already been paid. This lacuna has been removed by explicitly mentioning in the revised draft PBO that revision of prices would only be subject to a change, if any, in Government levies/taxes and/or currency fluctuation.



#### Page # 12 13 November 2013

