

# 'Strengthening the commission's core essential for its effectiveness,' Joseph Wilson, Chairperson, Competition Commission of Pakistan

**D**r. Joseph Wilson has over 21 years of experience in public service, law practice, teaching and research. Now acting chairman, he has been serving as CCP's founding member since 2007 and has supervised most of the commission's departments. He has previously taught 'competition law' at LUMS and McGill Law, Montreal, Canada, his alma mater where he received his Doctor of Civil Law and LL.M. Dr. Wilson is a member of the State Bar of New York and the Lahore High Court Bar, and also serves on the International Advisory Board of the Loyola University Chicago's Institute for Consumer Antitrust Studies, USA.

Following are selected excerpts from BR Research's recent sit-down with Dr. Wilson in Islamabad:

**BR Research: It has been eight months since you became the acting chairman. How are you finding your new role?**

**Dr. Joseph Wilson:** The new role is demanding! It becomes even more challenging when there is a serious human resource constraint. Despite that, in a short period of eight months, the Commission issued three new regulations under the Competition Act 2010: Leniency Regulations; Reward Payment Regulations and Exemption Regulations.

The Commission issued two policy notes: one on the non-issuance of flare gas licenses by OGRA and the other on the imposition of capacity tax on the beverage industry, and disposed of six cases. After the removal of the hiring ban, we are planning to strengthen our human resource capacity, which



Dr. Joseph Wilson

will take another three to four months' time.

**BRR: Will the CCP be able to have strength of five to seven members within that time?**

**JW:** That's a bit ambiguous. The government gave the ad for hiring new members, but it has been challenged. So, the recruitment process has inevitably stalled and the CCP cannot do anything about it. But, we do have the authority to hire people within the Commission. We need to strengthen the 'middle tier' of the organisation to be really effective. We need more broad-based mid-level officials. That is essential for sustained working of the institution.

**BRR: In terms of technical knowledge, what should the commission members' composition be?**

made in the consumers' lives? Have our interventions resulted in fair prices or high quality goods?

In the last eight months, there are a number of interventions that we have made where without going to courts or initiating the legal proceedings, companies have voluntarily complied with the competition law provisions. For example, ICAP, which had revised their examination fee by 118 percent, has now reduced to 60 percent after our queries. That directly benefits the ICAP students. Various energy sector procurement activities for items like transformers and switch gears, which were anti-competitive, are now being complied with after our intervention.

I don't have the capacity to exactly quantify the consumer benefit of these interventions. But consumer welfare is what matters. We have limited capacity but tons of cases. My focus will be to take on cases where we can have impact. So, we need to prioritise our cases, and our priority will lie where there is a large impact on consumers' lives.

**BRR: CCP's rulings and orders have been litigated in the past, with courts granting stay orders against the judgments and penalties. That makes the commission seem like a toothless body. How can you tackle enforcement in such an environment?**

**JW:** We are not working in isolation. We do our part. The judicial review is the legal right of the companies. But stay orders do not necessarily mean that we stop taking action through initiating a fresh case if a particular anti-competitive activity continues.

I will give you an analogy with the

criminal act of murder to make my point here: if a murder accused goes out on bail and kills more people, that constitutes a fresh cause of action. Continuing anti-competitive activity is akin to hurting more consumers. That, for us, is a fresh cause of action. We are planning on doing that in a number of sectors.

**BRR: What is your roadmap for your term in office?**

**JW:** We are working on two fronts: strengthening the internal capacity of the Commission; and revising the regulations to bring them in line with the Competition Act 2010. Hopefully, in a few months, we will have more certainty on the human resource front. There are a number of pending inquiries which are gradually being churned out. I am trying to have at least one to two hearings held per week. All these things will hopefully show results by the end of the year.

My goal for the next three years is to have a sustainable institution where you have a qualified and competent middle management which is not affected too much by changes in the top tier. The aim is to form a core professional team within various departments that is readily available for the right advice to the leadership. You can get good administrators but people with technical knowledge are a rare commodity. Hopefully, universities will have formalized courses on competition law and competition economics so that trained resources are available to the Commission.

This year again, we are planning our international competition conference in Islamabad this October. Within two months, we have already confirmed 15 international speakers. Our annual

International Conference has put Pakistan's competition landscape into international spotlight, while allowing us the opportunities for learning, networking and advocacy within the region and beyond.

**BRR: Given a choice between out-of-court settlement and litigation, what is your personal choice?**

**JW:** I would agree to a 'consent order' to the extent that we educate the parties, and the parties realise the harm done to consumers by their actions. If parties agree to the remedy proposed, there is a finality of the case, there is a rectification of an anti-competitive practice, and if it results in consumer welfare immediately. If that happens, there is no point in going to litigation. My preference has always been to convince the parties about their wrongdoing and making them agree with the remedy proposed.

**BRR: What role can CCP play in making public procurement more competitive and transparent?**

**JW:** The mandate in the Competition Act allows us to intervene in cases of collusive tendering and bid rigging. We are currently in the process of developing a MoU with PPRA to get more detailed information on public procurement activities and to educate their officials. With more cooperation, we hope to be able to monitor public procurement activities. We are hoping to develop a system where CCP can get real-time bidding data from PPRA in order to monitor bidding snaps for anti-competitive behaviour.

**BRR: There were concerns raised by petroleum companies regarding discriminatory access to Inland Freight Equalization Margin**

(IFEM) pool which may distort conditions of competition in the crude and refined oil markets.

**JW:** We are investigating that matter, during which we have conducted one of the largest public hearings in CCP's history where over 40 people and two DGs from the Ministry of Petroleum and the OGRA were present. There are at least four parties involved in this issue: OGRA, Ministry of Petroleum, the ECC decisions, and the complainants. We are still analysing the data and positions taken by the parties. But, my initial observation is that these parties are not on the same page. I can't say what the outcome of the inquiry will be. But there is merit in the complaint. Taking example of this case, I must reiterate here that incentives for investment should not distort the conditions of competition in the market.

**BRR: The CCP has reportedly initiated an inquiry over milk companies for indulging in non-competitive practices by abusing their market position. What are the findings so far?**

**JW:** We have done some research on that which has resulted in a policy note. There is this problem in other essential commodities as well where the government sits down with the trade associations and fixes the prices. We understand that the prices of essential commodities are not competitive in Pakistan, so the government often intervenes. But our position is that the government should listen to them but should not negotiate. Otherwise, it will amount to collusive behaviour. Government should do its own research and then fix the prices of essential commodities.

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## مشروبات انڈسٹری پر عائد کردہ کمیٹی ٹیکس واپس لینے کی تجویز

اسلام آباد (آن لائن) لاہور ہائی کورٹ کی طرف سے قائم کردہ خصوصی کمیشن نے (فیڈرل بورڈ آف ریونیو) ایف بی آر کی طرف سے بیور بیجز انڈسٹری پر عائد کردہ کمیٹی ٹیکس کو واپس لینے کی تجویز دے دی ہے۔ میڈیا رپورٹس کے مطابق کمیشن نے کمیٹی ٹیکس کے بارے میں جائزہ لے کر اپنی رپورٹ پیش کر دی ہے جس میں کمیٹی ٹیکس کے بارے میں مسابقتی کمیشن آف پاکستان کی طرف سے جاری کردہ پالیسی نوٹ کا حوالہ دیا گیا ہے جس میں مسابقتی کمیشن نے کمیٹی ٹیکس کو مسابقتی قوانین کے خلاف قرار دیتے ہوئے واپس لینے کا کہا تھا۔ کمیشن کی طرف سے بیور بیجز انڈسٹری پر عائد کردہ کمیٹی ٹیکس کے بارے میں اسٹیک ہولڈرز کا موقف سننے کے ساتھ تمام پہلوؤں سے جائزہ لے کر سفارشات پر مبنی رپورٹ تیار کر کے پیش کی ہے اور ہائی کورٹ اب اس رپورٹ کا جائزہ لے گی۔