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Challenges in building a competitive economy

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CONSUMERS fear that tycoons in sectors like auto, cement, fertiliser, sugar and fast-moving consumer goods will enjoy greater liberty to earn 'un-ethical' profits, as the key market regulator is further weakened by government inaction.

The Competition Commission of Pakistan (CCP) is currently unsupervised, as its chairperson left after completing her term last week. Informed circles are expecting the government to appoint Dr Joseph Wilson, an officer at the CCP, as temporary chairperson, as no other obvious candidate is immediately available. A senior source in the Commission endorsed the impression.

"We were hoping for the notification to be issued on July 25, the last day of Madam Kaunain in office. As far as we understand, the procedure for the appointment of the post, which has peculiar requirements, is complicated," a member of the leading team at the CCP told *Dawn*.

The delay in the appointment of a new chairperson, or the selection of a misfit as the head of the regulatory body after the exit of the chairperson, may kill the very purpose of the regulation.

The dysfunctional appellate tribunals have already compromised the power of the CCP to discipline the market.

"The delay is bad, but an inappropriate appointment would be worse, as it would push the country back by a decade, and all the good work done since the inception of the CCP will be lost. It will reduce the CCP to a 'shell organisation' for all practical purposes. A 'shell firm' has a form but no substance or utility," a competition expert, currently in England, privately commented over phone.

"Who can forget the days when stockbrokers and bankers made hey under Shaukat Aziz's patronage? Cement, sugar, fertiliser and auto tycoons also benefited from rent-seeking activities," he scored a point.

"Who benefited from the spike in the economic activity in the mid-2000s? A thin minority at the top of the social ladder multiplied its assets many times over. Who paid for their excesses? The people of the country, as products and services became dearer," he added.

"If nothing else, Khalid Mirza, as the first CCP chairperson, challenged the

powerful, who were perceived to be 'untouchables' at that point. For the first time, a regulator showed muscle to take powerful cartels head on. It earned him respect, and dissuaded elements from manipulating the market to some extent," said a business leader from Lahore.

"The government will have to appoint more members to the governing board first, and then appoint a suitable person for the coveted post. The CCP falls under the federal ministry of finance," he informed.

Attempts to reach Dr Waqar Masood, the federal finance secretary, did not succeed, but a former federal secretary told *Dawn* that the government is apparently preoccupied with other, more pressing issues to give attention to the affairs of the competition commission.

Rahat Kaunain Hasan, the former CCP chairperson who retired last week, was not able to find time to offer comments, but the corporate communications department of the body emailed a list of her achievements to *Dawn*.

The document compares the performance of the CCP during the past three years with the ground covered by the Commission under Khalid Mirza, who retired in 2010. The document cited data to prove that Rahat managed the commission better than Mirza.

It claimed that cases decided increased from 32 to 64; show-cause notices issued increased from 219 to 434; 37 enquiry reports were completed against 19 before; 13 policy notes were published against six before; 215 exemptions were granted by Mirza, whereas Ms Kaunain increased them to 456; four search inspections were conducted during 2007-2010, and these were increased to 18, and compared to 164 NOCs issued by Mirza, Ms Kaunain cleared 359 cases for mergers. The collection of penalty by the CCP also jumped from Rs7.316 billion to over Rs25 billion during Kaunain's period as CCP chairperson.

"She might have done what she claims, but market manipulators continue to operate with impunity. People continue to pay premiums on car purchases, and those who decline to overpay are punished by car assemblers. The car buyers lose out on interest on the millions they deposit as price, and are humiliated by the company during the waiting period that runs into months," commented an expert on anti-trust laws.

As CCP chairman, Khalid Mirza had pointed out in 2008 that several sectors were run by oligarchies or cartels, which

adversely affected the interest of consumers. "Leading banks, and cement, sugar, automotive and fertiliser companies are colluding for gains," Mirza said in an interactive seminar in Karachi. He added that "the monopoly rent is pervasive in the economy, and has caused endemic inefficiency in all the sectors, which has damaged the country's competitiveness".

Zubair Ahmed Malik, president of the Federation of Pakistan Chamber of Commerce and Industry, supports the CCP's mission of curtailing the power of market manipulators, who stifle space for new entrants and cause public sentiments to turn against the private sector.

"I am not casting aspersions, but the big business feared the competition commission when Khalid Mirza was heading the regulatory body. The lady achieved whatever she did because of the 'incorruptible tough competent body that means business' reputation the CCP earned in its formative years," Malik told *Dawn*.

"The government must do all it takes to make the Competition Appellate Tribunal (CAT) functional, to allow the CCP to play the role of a referee and ensure that medium and small businesses get equal opportunity to compete in a free market environment," he added.

The tribunal was supposed to start work within a month after parliament enacted the CCP Act in 2010. Justice Faqir Mohammad Khokar was appointed chairman of the minimum three-member tribunal. In 2012, Mirza was hired as a CAT member. However, the tribunal could not become operative, as the government has not appointed the third member.

The situation favours companies found guilty by the CCP of violation of market code. "They file appeals in high courts, which retards the process and renders the regulator toothless," explained a corporate lawyer familiar with the issue.

"I seriously doubt that the Nawaz Sharif government, which is supported by big business, will be interested in an effective competition commission," commented an economist.

The Competition Commission of Pakistan, a quasi-regulatory and quasi-judicial body, has been vested with the responsibility to ensure healthy competition in a free market environment. It is tasked to prohibit the abuse of dominant position in the market, anti-competitive tie-ups and deceptive market practices.