

Certain old fertiliser cos

CCP urged to take notice of discrimination in gas supply

RECORDER REPORT

ISLAMABAD: The Competition Commission of Pakistan (CCP) should take immediate notice of discriminatory treatment to certain old fertiliser companies regarding supply of gas, putting certain units at disadvantageous position as compared to new units.

Sources told Business Recorder here on Thursday that the fertiliser policy of the government seems anti-competitive putting certain units at an advantageous position as compared to others. The government's handling of fertiliser policy contradicts provision of level playing fields to the old and new fertilizer plants as promised in Fertilizer policy, 2001. This discriminatory treatment between the old and new units on supply of gas may force some companies to go for litigation.

If any competitive edge has been given by the government to

certain plants under the policy, it would be considered as discrimination under the Competition Act, 2010. Under section 29 of the Competition Act, 2010, the CCP is legally empowered to issue the Competition Advise in view of the competition concerns and to prevent or eliminate anti-competitive behaviour.

The section 29 of the Competition Act, 2010 also authorizes the CCP to advise the government to withdraw its discriminatory policy.

The CCP also needs to thoroughly analyze the fertilizer policy whether it provides equal treatment to all plants for avoiding discrimination or not.

The Competition Act, 2010 mandates CCP to ensure a level playing field for all business undertakings. Any discriminatory policy that result in putting a segment of business into a disadvantageous position deems anti-competitive and CCP has the power

to intervene in favour of fair competition. In case of a government ministry or department introducing such a discriminatory policy, the CCP has the legal authority and powers to issue a Policy Note.

Under the Competition Act 2010, the CCP can issue the Policy Note to the relevant government departments in case the discriminatory treatment to some old fertilizer companies is proved. The competition law ensure level playing field in all areas and any anti-competitive policy of the government would be checked by the CCP.

The issue needs to be thoroughly investigated based on industry records by seeking inputs of all relevant government departments and ministries by CCP, sources said.

Recently, with the increase in GIDC as per the ECC decision in Jan 2014 the difference of cost between urea bag prices

between old and new plants have risen to approximately Rs 410 per bag or 8.2 million/MT of urea or approximately 14.8 billion considering new plants production capacity in the country. When feasibility of any project is appraised future cash flow is calculated on account of Govt policies and any benefit it could provide. At the time of policy formulation (2001) the discount between old and new plants feed gas prices was about Rs50 per bag which was within reasonable limits but the government has disregarded this basis resulting in heavy impairment of approximately 13.0 billion/year to GOP and denial of level playing field for some Urea manufacturers.

The government had announced First Fertilizer Policy in 1989 where the discount to new plants on feed stock was in justified quantum and was also adopted in 2001 policy.