

BEFORE THE COMPETITION COMMISSION OF PAKISTAN

IN THE MATTER OF

M/S Fecto Belarus Tractors (Pvt.) Limited Vs. Shahzad Trade Links

(File No.22/Dir(M&TA)/Minsk/CCP/09)

1. M/s Fecto Belarus Tractors (Pvt.) Limited (hereinafter the "Complainant") filed a complaint on 11<sup>th</sup> August 2009 before the Competition Commission of Pakistan (hereinafter the "Commission") against Shahzad Trade Links (hereinafter the "Respondent") for entering into an exclusive agency agreement with M/s Minsk Tractor Works in violation of section 4 of the Competition Ordinance, 2007 (hereinafter the "Ordinance"). It was also alleged in the complaint that by virtue of its exclusive agency agreement the Respondent has captured the entire market of Belarus Tractors in Pakistan and is capable of imposing its own terms on the Government of Pakistan for the purchase of tractors under the Benazir Tractor Scheme.
2. An inquiry was initiated under section 37 of the Ordinance and Ms. Nadia Nabi, Joint Director, was appointed Inquiry Officer on 13<sup>th</sup> August, 2009. Inquiry Report was completed and submitted on 29<sup>th</sup> September, 2009.
3. The Inquiry Report concluded that the complaint is not substantiated with *prima facie* evidence. The exclusive agency agreement impugned in the complaint does not result in any substantial foreclosure of the market and also does not affect inter-brand competition of tractors in Pakistan. Therefore, the exclusive agency agreement between the Respondent and M/s Minsk Tractor Works is not restricting, preventing or reducing competition in the relevant market, hence does not contravene section 4 of the Ordinance.
4. The Inquiry Report also discussed the procurement process of tractors under the Benazir Tractors Scheme. It is evident that the said scheme gives farmers discretion to select the make and model of their own choice from a wide range of tractors available in the market. Therefore, it cannot be said that the Respondent will be able to monopolise the Benazir Tractor Scheme and impose his own terms and conditions on the Government.
5. In addition, the past conduct of the Complainant highlighted in the Inquiry Report shows *mala fide* intent on the part of the Complainant and thus the complaint smacks of vexatious motives.

*JW*

6. In view of the above, I am of the opinion that the complaint failed to make out any violation of chapter II of the Ordinance, therefore, proceedings under Section 30 cannot be initiated. Hence, the complaint is hereby dismissed.



(Dr. Joseph Wilson)  
Member (M&TA)

Islamabad, October 2<sup>nd</sup>, 2009