



BEFORE THE
COMPETITION COMMISSION OF PAKISTAN
IN THE MATTER OF

SHOW CAUSE NOTICES ISSUED TO

AL HAJ MIAN LIAQUAT ALI & DR. SHAZIA LIAQUAT OF
LIAQUAT HOSPITAL LAHORE
(F. NO: 143/OFT/LHOSPITAL/CCP/2013)

Dates of hearing: 15th January 2015
11th November 2014
23rd October 2014

Commission: Ms. Vadiyya Khalil
Chairperson

Dr. Joseph Wilson
Member

Dr. Shahzad Ansar
Member

Mr. Ikram Ul Haque Qureshi
Member

Present on behalf of:

Dr. Al Haj Mian Liaquat Ali

Syed Mansoor Ali Bukhari,
Advocate Supreme Court

Dr. Shazia Liaquat

Mr. Fayyaz Sindhu
Advocate

Mr. Ashfaq Ali

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ORDER

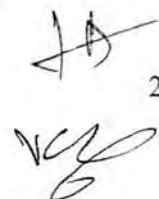
1. This order shall dispose of the proceedings arising out of show cause notice numbered 13/2014 & 14/2014 issued to Dr. Al Haj Mian Liaquat Ali & Dr. Shazia Liaquat, partners of 'Ms/ Liaquat Homeo Hospital' (hereinafter the '**Respondent**' and/or '**Respondents**') for *prima facie* violation of Section 10 of the Competition Act, 2010 (hereinafter the '**Act**') which prohibits deceptive marketing practices.
2. The Competition Commission of Pakistan (hereinafter the '**Commission**') received complaint through email from Ms. Tehmina Shabbir (hereinafter the '**Complainant**'). It was alleged in the complaint that certain TV channels are running advertisement of the Respondent claiming to completely cure various types of diseases which is actually not possible. The Complainant highlighted that it is a very serious issue which needs to be addressed by the Commission under Section 10 of the Act.
3. After the primary scrutiny the Commission decided to initiate an inquiry under Section 37 (2) of the Act and appointed inquiry officers with the direction to carry out the inquiry on the issues raised in the complaint and to submit the enquiry report by giving their findings and recommendations *inter alia* on the following issues:
 - (i). Whether the conduct of the Respondent is capable of harming the business interest of other doctors in violation of Section 10(2)(a) of the Act?
 - (ii). Whether the Respondent is disseminating false/misleading information to the consumers that is lacking a reasonable basis, related to character, properties, or quality of services in violation of Section 10(2)(b) of the Act?
4. The inquiry was concluded vide report dated 07 April 2014 (hereinafter the '**Inquiry Report**'). It was recommended by the Inquiry Report that proceedings under Section 30 of the Act may be initiated against the Respondents in accordance with law. Based on the *prima facie* findings of the Inquiry Report the Commission initiated the proceedings under Section 30 of the Act by issuing show cause notices to the Respondents on 03 October 2014 (hereinafter the '**SCN**'). The Respondents were required to respond to the SCN in writing within fourteen (14) days from the date of



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the SCN and to appear before the Commission and avail the opportunity of hearing on 23 October 2014. The SCN in its relevant parts alleged as follows:

“7. **WHEREAS**, in terms of paragraphs 6.2 to 6.9 of the Enquiry Report, it appears that the Respondent and one Dr. Shazia Liaquat by not using the term ‘Homeopathic’ in the marketing campaign / televised advertisements and visiting cards are disseminating false and misleading information to the consumers regarding the services offered by him at M/s Liaquat Homeopathic Hospital;

8. **WHEREAS**, in terms of paragraphs 3.2 & 3.3 and 6.13 to 6.20 of the Enquiry Report, it appears that the Respondent and one Dr. Shazia Liaquat are making various claims through his marketing campaign / televised advertisements which inter alia include:

- (a) Complete cure of Hepatitis A, B & C,
- (b) Complete Cure of all types of diabetes within three months,
- (c) Lose 30 pounds weight and reduce waists by 5 inches within thirty days,
- (d) End of dandruff and hair fall in few days,
- (e) Enhance beauty of the person in few days,
- (f) Increase the height of men and women by 6 to 8 inches without distinguishing any age or group,
- (g) Complete cure of all kinds of joint pain,
- (h) Complete cure of vitiligo or phulbehri with guarantees that the disease will not return back,
- (i) Guaranteed birth of a male child.

9. **WHEREAS**, in terms of paragraphs 4.2 to 4.7 and 6.13 to 6.20 of the Enquiry Report, the Respondent and one Dr. Shazia Liaquat despite of repeated requests did not provide any evidence or report to substantiate the claims made in the marketing campaign/ televised advertisements;

10. **WHEREAS**, in terms of paragraphs 6.13 to 6.20 and 7.1 to 7.5 of the Enquiry Report, it appears that the Respondent and one Dr. Shazia Liaquat through the marketing campaign / televised advertisement is giving an impression to the consumers that he is a qualified ‘Doctor’ practicing modern system of medical services which prima facie is false and misleading and lacks reasonable basis regarding the character, suitability of use and quality of services provide by the Respondent as the Respondent is a ‘Homeopathy Doctor’ and the hospital at which he is providing medicinal services is also a ‘Homeopathy Hospital’, which appears to be false/misleading information that is lacking a reasonable basis regarding the character, suitability of use and quality of services provided by the Respondent and is a prima facie violation of clause (b) of subsection (2) of Section 10 of the Act read with subsection (1) of Section 10 of the Act;

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11. **WHEREAS**, in terms of paragraphs 6.13 to 6.20 and 7.1 to 7.5 of the Enquiry Report, it appears that the Respondent and one Dr. Shazia Liaquat made absolute claims in the marketing campaign / televised advertisements which inter alia include complete cure of Hepatitis A, B & C, diabetes mellitus, weight reduction, dandruff cure, increase in height of men and women, cure of joint pains, vitiligo or phulbehri, guaranteeing birth of male child etc. which appears to be false/misleading information that is lacking a reasonable basis regarding the suitability of use and the quality of services provided by the Respondent and one Dr. Shazia Liaquat at 'M/s Liaquat Homeo Hospital' and is a prima facie violation of clause (b) of subsection (2) of Section 10 of the Act read with subsection (1) of Section 10 of the Act;

12. **WHEREAS**, in terms of paragraphs 6.13 to 6.20 and 7.1 to 7.5 of the Enquiry Report, it appears that the marketing campaign / televised advertisement and the claims made in the televised advertisements by the Respondent and one Dr. Shazia Liaquat are capable of harming the business of other undertakings engaged in the provision of modern system of medical services and is a prima facie violation of clause (a) of subsection (2) of Section 10 of the Act read with subsection (1) of Section 10 of the Act;”

5. In response to the SCN, one of the Respondents namely Dr. Al Haj Mian Liaquat Ali submitted his written reply to the SCN. The main points of the reply to SCN are summarized as follows:

- a. Upon receipt of letter from one of the inquiry officers, the word 'orthopedic' was removed being a typographic mistake;
- b. The Respondents are homeopathic doctors and not doctors of orthopedic or allopathic.
- c. The medicines used by the Respondents for cure of various diseases and conditions are as follows:

(1). Complete cure of Hepatitis A, B & C (i) Carduus Marianus Pentarkan (ii) Acidum Hydofluoricum (iii) Aurum Chloratum (iv) Cardus Maianus (v) Quassia amara (vi) Excipients (vii) Ehanol 46%;

(2). Complete Cure of All types of Diabetes within 3 months through (i) Acid Phosphoricum, (ii) Arsenicum Album (iii) Cehalandra Indica (iv) Ignatia Amara (v) Lycopodicum Clavatum (vi) Scale Cornutum (vii)



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Syzgium Jambolanum (viii) Uranium Nitricum (ix) Alcohol 60% v/v
(x) Syzgium Schwabe;

- (3). Loose three pounds weight and reduce waists by 5 inches within 30 days by using the (i) Phytolacca Berry Schwabe Active substance Phytolacca a baccis 4x (ii) Fucus Vs (iii) Phytolacca Berry (iv) Alcohol 60% v/v and also used other formula with honey and lemon;
- (4). End of dandruff and hair fall in few days by using (i) Alumina (ii) Natrum Muriaticum (iii) Petoleum (iv) Sulphur (v) Thuja Occidentalis (vi) Alcohol 60% v/v (vii) Selenium Metallicum (viii) Thallium (viii) Ustilago Maydis (ix) Vinca Minor;
- (5). Enhance of Beauty of two types i.e. internal beauty of females and external beauty of person in few days by using Sorisa B-Cream by using this cream we provide a complete cure to enhance the internal beauty to females. Whereas for external beauty we used following medicine with specific formula (i). Berberis aquifolium (ii) Kali Bromatum (iii) Selenium Matallicum (iv) Silicea (v) Sulphur Iodatum (vi) Ars Sulphur Flav (vii) Calotropis Gigantea (viii) Hudrocotyle Asiatica (viii) Psoralea Corylifolia (ix) Ormatic Tablets.

- d. By using the specific formula and specific medicine percentage as per the level of disease which is providing complete cure to the patient's disease.
- e. Although the complaint against the Respondents was initiated on the email submitted by Tehmina Shabbir vide email tehmima_shabbir@hotmail.com, however, the said Complainant has not participated in the enquiry proceedings.

6. On the other hand the other Respondent namely Dr. Shazia Liaquat through her written reply to the SCN, stated that she is an homeopathic doctor and that neither was she involved in the marketing practices of the 'Ms/ Liaquat Homeo Hospital' by Dr. Al Har Mian Liaquat Ali nor her name is mentioned anywhere in the advertisement. It was also stated in her reply that she was only involved in the process for the



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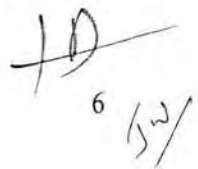
registration of partnership firm i.e. 'Ms/ Liaquat Homeo Hospital'. Hence, the show cause notice to her extent may be withdrawn.

7. On 23 October 2014, Mr. Ashfaq Ali, Mr. Fayyaz Sindhu and Mr. Imran Saeed Buttar appeared before the Commission on behalf of the Respondents and submitted that the legal advisor of the Respondents whose power of attorney has been submitted before the Commission is busy before Honorable Lahore High Court, therefore, the matter may be adjourned. Accordingly, hearing in the matter was adjourned for 11 November 2014, with the direction to the parties to make themselves available on the next date otherwise the matter will proceed ex-parte against the Respondents.
8. On 11 November 2014, Mr. Mansoor Ali Bukhari, Advocate Supreme Court along with Mr. Ashfaq Ali appeared before the Commission. The counsel appearing on behalf of the Respondents elaborated the written response submitted by the parties. However, he also submitted that the Respondents will be obliged to follow whatever directions are given by the Commission. He also submitted that they are willing to stop the advertisement in question unless cleared by the Commission.
9. On 15 January 2015 the matter was again heard by the Commission. Mr. Ashfaq Ali and Mr. Fayyaz Sindhu, associate of M/s. Mansoor Law Associates, appeared as an authorized representative on behalf of the Respondents. The Commission observed that the practice of disseminating their baseless claim via advertisements has not stopped despite the directions of the Commission.
10. During the hearing the Commission noted that the continued airing of the TVC was likely to cause serious damage, and therefore, in the public interest, it was necessary to issue an interim order under Section 31 of the Act till the conclusion of the proceedings. The Respondent's counsel, upon being given an opportunity to make his arguments on this matter, stated that he had no objection in this regard.

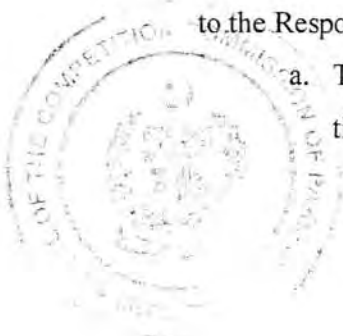
11. Therefore, Commission issued an interim order on 15 January 2015. Directions given to the Respondent in the interim order were:

- a. To immediately stop airing the TVC in any language and on all channels till the conclusion of proceedings; and

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- b. To file written commitment with the Registrar of the Commission, to his satisfaction and no later than ten day from the date of this order, that they would comply with the statement made by their counsel during the hearing on 15 January 2015; and
 - c. To file a compliance report within fifteen days from the date of order with regard to directions given in the two paragraphs above.
12. The respondent in response to the interim order issued by the Commission:
- a. Immediately stopped airing the TVC on all channels
 - b. Filled a satisfactory written commitment with the Registrar of the Commission, that they would comply with the statement made by their counsel during the hearing on 15 January 2015; and
 - c. Filled a compliance report as per the directions of the Commission.
13. We appreciate the forthcoming approach shown by the Respondents as they have expressed their willingness to comply with the directions of the Commission and have also stopped the advertisement upon the directions of the Commission.
14. We note that various absolute claims regarding health care services have been made by the Respondents in their advertisements under review which *inter alia* include (a). *Complete cure of Hepatitis A, B & C*, (b). *Complete Cure of all types of diabetes within three months*, (c). *Lose 30 pounds weight and reduce waists by 5 inches within thirty days*, (d). *End of dandruff and hair fall in few days*, (e). *Enhance beauty of the person in few days*, (f). *Increase the height of men and women by 6 to 8 inches without distinguishing any age or group*, (g). *Complete cure of all kinds of joint pain*, (h). *Complete cure of vitiligo or phulbehri with guarantees that the disease will not return back*, and (i). *Guaranteed birth of a male child*. However, none of the above claims have been substantiated by the Respondents either through written submissions or through oral arguments.
15. Regarding the 'reasonable basis' for making any claim in the advertisement, the Commission, in one of its earlier orders i.e. *In re: Procter and Gamble* reported as

2010 CED 1695, has observed that:

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"The concept of having a reasonable basis is an established concept in USA and was introduced after much deliberations and public comments through Policy Statement Regarding Advertising Substantiation. It provides that, the advertiser must have had some recognizable substantiation for the claims made prior to making it in an advertisement."

16. In view of the above, we are of the considered opinion that the Respondents have failed to justify the claims and provide the reasonable basis of the claims made in the advertisement. Therefore, the advertisement of 'Ms/ Liaquat Homeo Hospital' through which the Respondents have made various claims mentioned in Para (10) *supra* are in violation of Section 10 of the Act.
17. The Respondents are reprimanded not to indulge in deceptive marketing practices in future as it shall entail penal consequences and it shall continue to refrain from making the subject claims in the present form in their advertisements or marketing campaigns.
18. Before parting with this order, we note that this is the first case of deception regarding the medicinal and health care services against which the Commission has taken action. The fact that in an era when health providers have begun to market their services aggressively, deceptive health care advertising poses significant risks to the public. Fraudulent claims may entice consumers to undergo costly, ineffective, and even more importantly, dangerous medical procedures, cannot be ignored.
19. We are conscious of the fact that a successful health care provider and patient relationship is based on trust. The patient trusts that the health care provider has the appropriate training and skills, will listen to the patient and diagnose the disease, and will advise the patient accurately and objectively about the available course of treatment. It is essential to this relationship that the patients have confidence that the provider is honest and is not manipulating the information for any purpose. Being in a relatively uninformed position, patients usually assume that the provider is telling them all they need to know and that the information is accurate. For this reason, false and deceptive advertising by providers destroys the trust relationship between the provider and patient that is essential to quality medical care. Misrepresentation may

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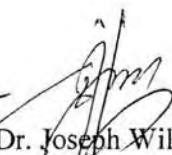
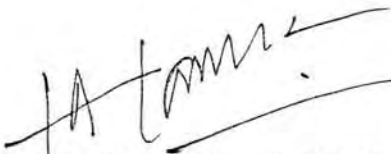
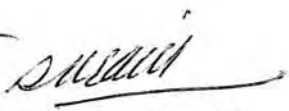
harm patients by making them less likely to seek out treatments they need or vulnerable to accepting treatments that are not useful or necessary.

20. In the above background, Pakistan Medical and Dental Council, National Council for Homeopathy, and Pakistan Electronic Media Regulatory Authority are strongly recommended to devise guidelines after consulting with all the stakeholders regarding the advertisements/ marketing practices by the medicinal and health care service providers, in the best interest of the public at large. The guidelines should be finalized at the earliest but preferably within a period of three months from the date of this order. The guidelines should ideally cover the following aspects:

- a. The advertisements should be accurate and should not contain explicit false claims or misrepresentations of material fact; and
- b. The advertisement must not by implication create false or unjustified expectations; and
- c. The advertisement should not omit any information that can affect the decision of an ordinary patient; and
- d. Finally, the claims in advertisements must have a reasonable basis regarding the claims.

21. The Registrar of the Commission is directed to send copies of this order to Pakistan Medical and Dental Council, National Council for Homeopathy, and Pakistan Electronic Media Regulatory Authority for information and appropriate action.


22. In terms of the above, the show cause notices number 13 & 14 of 2014 issued to the Respondents are hereby disposed of.


(Ms. Vadiyya Khalil)  (Dr. Joseph Wilson)  (Dr. Shehzad Ansar)  (Mr. Ikram Ul Haque Qureshi)
Chairperson **Member** **Member** **Member**

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Islamabad, 11 February 2015




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