



BEFORE THE
COMPETITION COMMISSION OF PAKISTAN

IN THE MATTER OF

SHOW CAUSE NOTICES ISSUED TO
TAIZGAM FEED MANUFACTURERS
ON COMPLAINT FILED BY
M/S AL-REHMAN OIL MILLS

(F. NO: 217/OFT/TAIZGAAM/CCP/2016)

Date(s) of hearing: 17-01-2017, 16-03-2017
28-12-2017

Commission: Dr. Shahzad Ansar
Member

Dr. Muhammad Saleem
Member

Present on behalf of:

M/s Al-Rehman Oil Mill

Syed Muhammad Junaid Mumtaz,
Legal Representative
Muhammad Muneeb Ali, Partner

M/s Niaz Corporation

Mr. Ghulam Fareed

M/s Hamza Corporation

Mr. Muhammad Naveed

M/s Muslim Corporation

Mr. Ihsan Maani

M/s Mian Traders

Mr. Asad Ikram

M/s Bahawalpur Oil Mills

Mr. Waqas, Owner
Mian Akramullah

M/s Riaz Oil Mills

Mr. Mubashar Ahmed, Enterpenure

M/s Baloch Oil Mills

Mr. Umar
Mr. Sajjad

M/s Azhar Karyana Store

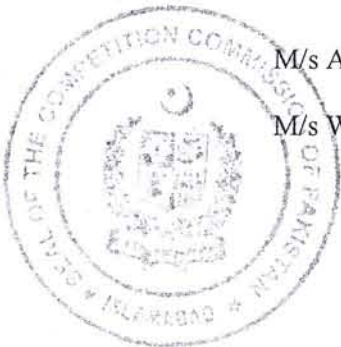
Mr. Shafiq ur Rehman

M/s Waqas Oil Mills

Haji Abdul Mujeeb

Attested To Be True Copy

Adnan Saeed Malik
Registrar
Competition Commission of Pakistan
Government of Pakistan
Islamabad



ORDER

1. This order shall dispose of the proceedings initiated pursuant to Show Cause Notices No. 25, 26, 27, 28, 29, 30, 31, 32 and 33 of 2016, dated 7 September, 2016 (hereinafter collectively referred to as the 'SCNs') issued to the following undertakings (collectively referred to as the 'Respondents') for *prima facie* violations of Section 10 of the Competition Act, 2010 (the 'Act'):
 - i. M/s Niaz Corporation ("Niaz Corp." or the '**First Respondent**');
 - ii. Mr. Muhammad Naveed of Hamza Corporation ("Hamza Corp." or the '**Second Respondent**');
 - iii. Mr. Ramdan Jani of Muslim Corporation ("Muslim Corp." or the '**Third Respondent**');
 - iv. Mr. Mian Tanveer of Mian Traders ("Mian Traders" or the '**Fourth Respondent**');
 - v. Mr. Mian Ikram of Bahawalpur Oil Mills ("Bahawalpur O.M." or the '**Fifth Respondent**');
 - vi. Mr. Hafiz Riaz of Riaz Oil Mills ("Riaz O.M." or the '**Sixth Respondent**');
 - vii. Mr. Sajjad Ur Rasheed of Baloch Oil Mills ("Baloch O.M." or the '**Seventh Respondent**');
 - viii. M/s Azhar Kiryana Store ("Azhar K.S" or the '**Eighth Respondent**');
and
 - ix. M/s Waqas Oil Mills ("Waqas O.M." or the '**Ninth Respondent**').
2. The SCNs were issued to the Respondents pursuant to a Complaint filed with the Competition Commission of Pakistan (the '**Commission**') by M/s Al-Rehman Oil Mills, Bahawalpur (hereinafter referred to as the '**Complainant**').
3. The main points under consideration in this matter are whether the Respondents have resorted to the unauthorized and fraudulent use of the Complainant's distinctive logo, packaging and registered trademark '**Taizgaam**' on their products so as to mislead the consumer as to the origin of the products and whether such conduct is capable of causing harm to the



Attested To Be True Copy

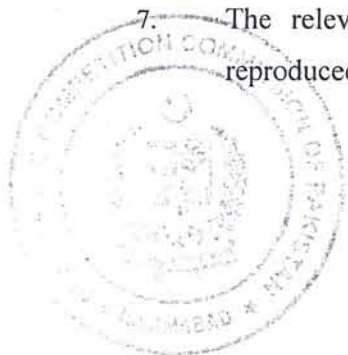
Adnan Saeed Malik
Registrar
Competition Commission of Pakistan
Government of Pakistan
Islamabad

1 of 35

business interests and goodwill of the Complainant in violation of Section 10 (1), in terms of Section 10(2)(a), 10 (2)(b) and 10(2)(d) of the Act.

FACTUAL BACKGROUND

4. The Complainant is running its business under the umbrella of the Rafi Group of Companies and is engaged in the production of animal/livestock feed (“Winda”), besides the distribution of cotton seed, oil cake and other allied products across Pakistan. The Respondents are also engaged in the business of manufacturing and selling of Winda.
5. The Complainant has alleged that the Respondents have copied its distinct and registered trademark “Taizgaam” in a way that Winda produced and marketed by the Complainant and the Respondents is indistinguishable. It was further alleged that the Respondents have used deceptively similar product labeling and packaging to that of the Complainant, thereby creating an impression in the minds of consumers that their products are actually those of the Complainant's, and are therefore passing off their goods to the consumers as goods manufactured by the Complainant. Consequently, it is alleged that such conduct of the Respondents is in violation of Section 10 the Act.
6. To assess the above allegations, an enquiry in terms of Section 37(2) of the Act was initiated (the ‘Enquiry’) and was conducted by the officers appointed for such purpose (the ‘Enquiry Committee’). The Enquiry was concluded *vide* an enquiry report dated 21 June 2016 (the ‘Enquiry Report’). Based on the *prima facie* observations of the Enquiry Report and the recommendations contained therein, the Commission initiated proceedings under Section 30 of the Act against the Respondents. The SCNs were issued to the Respondents, wherein they were required to respond in writing within fourteen (14) days and appear before the Commission to avail their opportunity of being heard.
7. The relevant portions of the SCN issued to the First Respondent are reproduced hereunder:



Attested To Be True Copy


Adnan Saeed Malik
Registrar
Competition Commission of Pakistan
Government of Pakistan
Islamabad

2 of 35



5. *WHEREAS, in terms of the Enquiry Report in general and paragraphs 3.9 and 3.10 in specific, it appears that the Undertaking has fraudulently used Complainant's trademark, logo, colour scheme and design of packaging for its products, which prima facie constitutes violation of Section 10(1) read with Section 10(2)(d) of the Act; and*

6. *WHEREAS, in term of the Enquiry Report in general and paragraphs 4.15 and 4.16 in specific it appears that the Undertaking's fraudulent use of the Complainant's trademark, logo, colour scheme and design of packaging on its packaging is capable of harming the business interests of the Complainant, and amounts to the distribution of false and misleading information to consumers which, prima facie, constitutes violation of Section 10(1) read with Section 10(2)(a) and (b) of the Act, respectively;*

8. The relevant portions of the SCN issued to the Second Respondent are reproduced hereunder:

5. *WHEREAS, in terms of the Enquiry Report in general and paragraphs 3.12 and 3.13 in specific, it appears that the Undertaking has fraudulently used Complainant's registered trademark, logo, colour scheme and design of packaging on its products which, prima facie, constitutes violation of Section 10(1) read with Section 10(2)(d) of the Act; and*

6. *WHEREAS, in term of the Enquiry Report in general and paragraphs 4.15 and 4.16 in specific it appears that the Undertaking's fraudulent use of the Complainant's trademark, logo, colour scheme and design of packaging on its packaging is capable of harming the business interests of the Complainant, and amounts to the distribution of false and misleading information to consumers which, prima facie,*

Attested To Be True Copy


Adnan Saeed Malik
Registrar
Competition Commission of Pakistan
Government of Pakistan
Islamabad

3 of 35



constitutes violation of Section 10(1) read with Section 10(2)(a) and (b) of the Act, respectively;

9. The relevant portions of the SCN issued to the Third Respondent are reproduced hereunder:

5. *WHEREAS, in terms of the Enquiry Report in general and paragraphs 3.14 to 3.16 in specific, it appears that the Undertaking has fraudulently used Complainant's registered trademark, logo, colour scheme and design of packaging on its products, which prima facie constitutes violation of Section 10(1) read with Section 10(2)(d) of the Act; and*

6. *WHEREAS, in term of the Enquiry Report in general and paragraphs 4.15 and 4.16 in specific it appears that the Undertaking's fraudulent use of the Complainant's trademark, logo, colour scheme and design of packaging on its packaging is capable of harming the business interests of the Complainant, and amounts to the distribution of false and misleading information to consumers which, prima facie, constitutes violation of Section 10(1) read with Section 10(2)(a) and (b) of the Act, respectively;*

10. The relevant portions of the SCN issued to the Fourth Respondent are reproduced hereunder:

5. *WHEREAS, in terms of the Enquiry Report in general and paragraphs 3.17 to 3.19 in specific, it appears that the Undertaking has fraudulently used Complainant's registered trademark, logo, colour scheme and design of packaging on its products, which prima facie constitutes violation of Section 10(1) read with Section 10(2)(d) of the Act; and*



Attested To Be True Copy

Adnan Saeed Malik
Registrar
Competition Commission of Pakistan
Government of Pakistan
Islamabad

4 of 35

6. *WHEREAS, in term of the Enquiry Report in general and paragraphs 4.15 and 4.16 in specific it appears that the Undertaking's fraudulent use of the Complainant's trademark, logo, colour scheme and design of packaging on its packaging is capable of harming the business interests of the Complainant, and amounts to the distribution of false and misleading information to consumers which, prima facie, constitutes violation of Section 10(1) read with Section 10(2)(a) and (b) of the Act, respectively;*

11. The relevant portions of the SCN issued to the Fifth Respondent are reproduced hereunder:

5. *WHEREAS, in terms of the Enquiry Report in general and paragraphs 3.21 in specific, it appears that the Undertaking has fraudulently used Complainant's registered trademark, logo, colour scheme and design of packaging on its products, which prima facie constitutes violation of Section 10(1) read with Section 10(2)(d) of the Act; and*

6. *WHEREAS, in term of the Enquiry Report in general and paragraphs 4.15 and 4.16 in specific it appears that the Undertaking's fraudulent use of the Complainant's trademark, logo, colour scheme and design of packaging on its packaging is capable of harming the business interests of the Complainant, and amounts to the distribution of false and misleading information to consumers which, prima facie, constitutes violation of Section 10(1) read with Section 10(2)(a) and (b) of the Act, respectively;*

12. The relevant portions of the SCN issued to the Sixth Respondent are reproduced hereunder:

5. *WHEREAS, in terms of the Enquiry Report in general and paragraphs 3.22 to 3.24 in specific, it appears that*

Attested To Be True Copy



Adnan Saeed Malik
Registrar
Competition Commission of Pakistan
Government of Pakistan
Islamabad

5 of 35



the Undertaking has fraudulently used Complainant's registered trademark, logo, colour scheme and design of packaging on its products, which prima facie constitutes violation of Section 10(1) read with Section 10(2)(d) of the Act; and

6. **WHEREAS**, *in term of the Enquiry Report in general and paragraphs 4.15 and 4.16 in specific it appears that the Undertaking's fraudulent use of the Complainant's trademark, logo, colour scheme and design of packaging on its packaging is capable of harming the business interests of the Complainant, and amounts to the distribution of false and misleading information to consumers which, prima facie, constitutes violation of Section 10(1) read with Section 10(2)(a) and (b) of the Act, respectively;*

13. The relevant portions of the SCN issued to the Seventh Respondent are reproduced hereunder:

5. **WHEREAS**, *in terms of the Enquiry Report in general and paragraphs 3.25 to 3.27 in specific, it appears that the Undertaking has fraudulently used Complainant's registered trademark, logo, colour scheme and design of packaging on its products, which prima facie constitutes violation of Section 10(1) read with Section 10(2)(d) of the Act; and*

6. **WHEREAS**, *in term of the Enquiry Report in general and paragraphs 4.15 and 4.16 in specific it appears that the Undertaking's fraudulent use of the Complainant's trademark, logo, colour scheme and design of packaging on its packaging is capable of harming the business interests of the Complainant, and amounts to the distribution of false and misleading information to consumers which, prima facie,*



Attested To Be True Copy

Adnan Saeed Malik
Registrar
Competition Commission of Pakistan
Government of Pakistan
Islamabad

6 of 35

constitutes violation of Section 10(1) read with Section 10(2)(a) and (b) of the Act, respectively;

14. The relevant portions of the SCN issued to the Eighth Respondent are reproduced as under:

5. *WHEREAS, in terms of the Enquiry Report in general and paragraphs 3.28 to 3.30 in specific, it appears that the Undertaking has fraudulently used Complainant's registered trademark, logo, colour scheme and design of packaging on its products, which prima facie constitutes violation of Section 10(1) read with Section 10(2)(d) of the Act; and*

6. *WHEREAS, in term of the Enquiry Report in general and paragraphs 4.15 and 4.16 in specific it appears that the Undertaking's fraudulent use of the Complainant's trademark, logo, colour scheme and design of packaging on its packaging is capable of harming the business interests of the Complainant, and amounts to the distribution of false and misleading information to consumers which, prima facie, constitutes violation of Section 10(1) read with Section 10(2)(a) and (b) of the Act, respectively;*

15. The relevant portions of the SCN issued to the Ninth Respondent are reproduced hereunder:

5. *WHEREAS, in terms of the Enquiry Report in general and paragraphs 3.31 to 3.33 in specific, it appears that the Undertaking has fraudulently used Complainant's registered trademark, logo, colour scheme and design of packaging on its products, which prima facie constitutes violation of Section 10(1) read with Section 10(2)(d) of the Act; and*



Attested To Be True Copy

Adnan Saeed Malik
Registrar
Competition Commission of Pakistan
Government of Pakistan
Islamabad

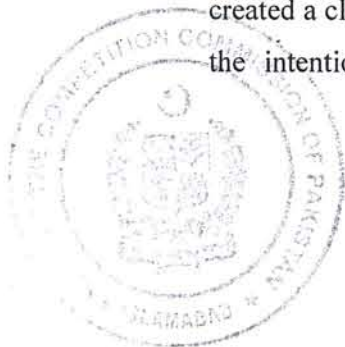
7 of 35

6. *WHEREAS, in term of the Enquiry Report in general and paragraphs 4.15 and 4.16 in specific it appears that the Undertaking's fraudulent use of the Complainant's trademark, logo, colour scheme and design of packaging on its packaging is capable of harming the business interests of the Complainant, and amounts to the distribution of false and misleading information to consumers which, prima facie, constitutes violation of Section 10(1) read with Section 10(2)(a) and (b) of the Act, respectively;*

SUBMISSIONS OF THE PARTIES

A. BY THE COMPLAINANT

16. The primary contentions and grievances of the Complainant against the Respondents are summarized as follows:
- a. That the Complainant, through its partners, applied for the registration of its trademark, namely "Taizgaam" under class 31 of the Trade Marks Ordinance, 2001 and received the registration certificate of its trademark on 07October 2015, bearing Registration No. 332864.
 - b. That the Complainant spends a huge amount of money on advertising and marketing of its Winda under the registered trademark "Taizgaam" which has achieved the status of a well-recognized brand among the general public and consumers.
 - c. That the Respondents, in order to get the benefit of a registered trademark and brand identity, have engaged in deceptive marketing practices by using the Complainant's registered trademark 'Taizgaam' on the packaging and labeling of their products using a similar graphical layout, language, font and color scheme as that of the Complainant's which has created a close resemblance to the Complainant's packaging material, with the intention to deceive and confuse the customers, thereby causing



Attested To Be True Copy

Adnan Saeed Malik
Registrar
Competition Commission of Pakistan
Government of Pakistan
Islamabad

8 of 35

damage to the goodwill of the Complainant's brand and inflicting financial losses upon it.

- d. That some of the Respondents even used fake resembling phone numbers on the packaging of their products to create a similarity between their own and the Complainant's packaging. Moreover, some were also engaged in the practice of using the word 'registered' on their packaging without having obtained registration from any respective government department in relation to their product or its trademark/ trade name.
- e. That the Complainant, in order to secure its brand identity, published a warning notice in the reputable daily newspaper 'Khabrain' dated 23 February 2016 in Islamabad, Lahore, and Multan respectively. The contents of the notice warned the Respondents, in particular, to restrain from using the Complainant's registered trademark 'Taizgaam'.
- f. That the Complainant also served legal notices through its lawyer on all the Respondents at their registered addresses, warning the Respondents of legal consequences in case of failure to restrain from using the Complainant's registered trademark. However, the Respondents are still engaged in the manufacture and sale of their products using the Complainant's registered trademark 'Taizgaam' and confusingly similar product labeling and packaging.
- g. That the use of identical trademarks with respect to the sale of competing products to the same consumers amounts to passing off and taking unfair advantage of another, which is detrimental to the distinctive character and reputation of the Complainant, its product, and business interests.
- h. That the act of passing off has the potential to confuse an ordinary consumer into concluding that the counterfeit products offered are that of the Complainant's, thus harming the business interests of the Complainant.

- i. That, in addition to the above allegations, the individual grievances of the Complainant against each of the Respondents respectively include the following:

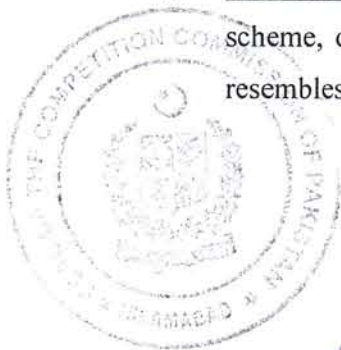


Attested To Be True Copy

Adnan Saeed Malik
Registrar
Competition Commission of Pakistan
Government of Pakistan
Islamabad

9 of 35

- i. **The First Respondent** is using the exact logo, design, and language on its products packaging as that of the Complainant. Furthermore, the same product tag has been used by the Respondent in order to mislead the general public. The said Respondent is also using the Complainant's registered trademark '*Taizgaam*' on its product packaging. Furthermore, the Respondent has even used a fake Trademark Reg. No. i.e. 9477-13 on its packaging in order to deceive customers, which is similar to the Complainant's Trademark Application No. 4977-13.
- ii. **The Second Respondent** is using the similar/identical logo, design, label, words, and color scheme on the packaging of its products which resembles the packaging of the Complainant's product. The only difference introduced by the said Respondent in its packaging is the nomenclature '*Mian Taizgaam*' instead of '*Taizgaam*'.
- iii. **The Third Respondent** is involved in the manufacturing of livestock feed with the name of '*M Taizgaam*', which bears a close resemblance to the registered trademark and brand name of the Complainant. The Respondent is also using confusingly similar color scheme, logo, language, and design on its packaging as that of the Complainant's product packaging.
- iv. **The Fourth Respondent** is involved in copying the design, logo, color scheme and language of the packaging of the Complainant's product on the packaging of its own products. The Respondent is also using the Complainant's registered trademark and brand name '*Taizgaam*' on its product packaging.
- v. **The Fifth Respondent** is using similar/identical style, color scheme, design and logo on the packaging of its products which resembles the packaging of the Complainant's product.



Attested To Be True Copy


Adnan Saeed Malik
Registrar
Competition Commission of Pakistan
Government of Pakistan
Islamabad

10 of 35



Furthermore, the Respondent is using a trademark which is similar to that of the Complainant i.e. 'New Taizgaam'.

- vi. **The Sixth Respondent** is using identical labeling style, color format and design on its products' packaging as that of the Complainant's packaging, as well as the Complainant's trademark i.e. 'Taizgaam'.
- vii. **The Seventh Respondent** is engaged in the practice of using a fake registration number i.e. '9477-13' on the packaging of its product, which is similar to the number used by the Complainant on its packaging, representing the acknowledgement received by the Complainant from the Intellectual Property Organization of Pakistan for the application of registration of its trademark 'Taizgaam'. The Respondent is also using the same style, logo, and color scheme on its packaging as that of the Complainant's packaging. The only difference introduced by the said Respondent in its packaging is that the Respondent is using the nomenclature 'Balouch Taizgaam' instead of 'Taizgaam'.
- viii. **The Eight Respondent** is acting as a sales point for all the resembling, fake, forged and counterfeit products made in the name of or similar to Complainant's registered trademark 'Taizgaam'. The said Respondent is also involved in the sale of a similar product in its own name using the trademark 'M Taizgaam' which is deceptively similar to the Complainant's trademark. Further, the Respondent is using the same language, design, and logo on the packaging of its product as that of the Complainant.
- ix. **The Ninth Respondent** is engaged in the manufacturing and sale of a product similar to that of the Complainant with the name 'Pak Taizgaam', which is deceptively similar to the Complainant's registered trademark 'Taizgaam'.



Attested To Be True Copy

Adnan Saeed Malik
Registrar
Competition Commission of Pakistan
Government of Pakistan
Islamabad

11 of 35

j. In view of the above grievances, the Complainant prayed for the following relief to be granted:

- i. That legal action may be taken against the Respondents;
- ii. That the Respondents may be directed to pay an amount in damages for harming the business interest and goodwill of the Complainant;
- iii. That the cost of the Complaint may also be rewarded to the Complainant;
- iv. Any other relief that the Commission deems fit may also be granted to the Complainant.

k. That the use of the Complainant's registered trademark, product labeling and packaging without authorization is deceptive and fraudulent, thereby *prima facie* violating Section 10(1) in terms of Section 10(2)(d) of the Act.

17. Furthermore, the Complainant reiterated its submissions during the course of the hearings before the Commission held on 17 January 2017 and 16 March 2017.

B. BY THE RESPONDENTS

18. In response to the SCNs issued to the nine Respondents, only the Eighth Respondent submitted a written reply to the Commission. All the other Respondents failed to respond to the SCNs.

19. The submissions of the Eighth Respondent are as follows:

- a. That it has no concern with the manufacturing of products bearing the name 'Taizgaam';
- b. That it is not the responsibility of the Respondent if any individual or business is manufacturing such products using the name of the Eighth Respondent;



Attested To Be True Copy

Adnan Saeed Malik
Registrar
Competition Commission of Pakistan
Government of Pakistan
Islamabad

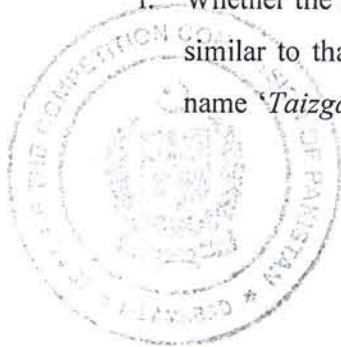
12 of 35

- c. That there is no evidence that the Eighth Respondent is involved in making and selling products bearing the name 'Taizgaam' since 07 October 2015.
20. While representatives of the Fifth and Sixth Respondents appeared at the hearing held on 17 January 2017 to present their position before the Commission, none of the other Respondents were present. Furthermore, all the Respondents except for the Second Respondent were present during the hearing held on 16 March 2017. The Respondents present during the second hearing took almost identical positions that their product packaging is visibly different from that of the Complainant's product. Furthermore, the First, Fourth, Fifth and Seventh Respondent submitted that they had changed their brand name and packaging as soon as they realized that the Complainant had a registered trademark in relation to the same. The Respondents' also stated that they were unaware of the Act and its provisions. The Commission thereafter encouraged the Respondents to submit commitments pursuant to the Act and the Competition (General Enforcement) Regulations, 2007 and further directed the Registrar of the Commission to coordinate with the Respondents in this regard. Third hearing in the matter was held on 28 December 2017, the Complainant as well as all the Respondents, except Respondent No. 2 and Respondent No. 8, were present during the hearing before the Commission. The Commission observed that despite clear directions and repeated reminders no commitments have been forthcoming from any of the Respondents. The Respondents submitted that the Commitments will be submitted latest by 01st January 2017. The hearing in the matter was concluded.

ISSUES AND DETERMINATION

21. The points for determination identified by the Commission in this matter are as follows:

- I. Whether the Respondents' product labeling and packaging is misleadingly similar to that of the Complainant's and/ or their use of the mark/ brand name 'Taizgaam', in the absence of authorization from the Complainant,



Attested To Be True Copy

Adnan Saeed Malik
Registrar
Competition Commission of Pakistan
Government of Pakistan
Islamabad

13 of 35

amounts to the "fraudulent use of another's trademark, firm name, or product labeling or packaging" within the meaning and scope of Section 10(2)(d) and hence a contravention of Section 10(1) of the Act;

II. Whether, the Respondents' use of the various trademark application/ registration numbers without proof of authenticity amounts to the "distribution of false or misleading information to consumers, including the distribution of information lacking a reasonable basis" within the meaning and scope of Section 10(2)(b) and hence a contravention of Section 10(1) of the Act.

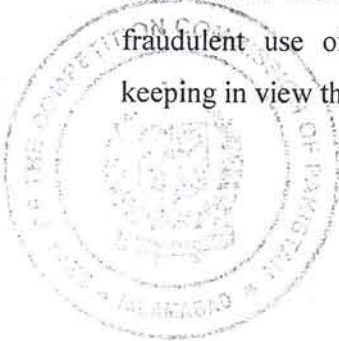
III. Whether the Respondent's conduct amounts to the "distribution of false or misleading information that is capable of harming the business interests" of the Complainant within the meaning and scope of Section 10(2)(a) and hence a contravention of Section 10(1) of the Act.

ANALYSIS AND DECISION

22. The factual and legal analysis herein below shall be structured according to the sequence and order of the three pertinent issues demarcated above as points I, II and III. To this extent, the Commission has taken into account and perused the entire record before it, including submissions and supporting documents of all the parties before it.

ISSUE NO. I

23. Point I requires the indulgence of the Commission in determining whether each of the Respondents have acted in violation of Section 10(1) in terms of Section 10(2)(d) of the Act, with regard to the use of the mark/ brand name 'Taizgaam' on its marketing material, and the extent of similarity of packaging and product labeling to that of the Complainant's. Accordingly, the Commission shall determine whether the Respondents have in fact made fraudulent use of the Complainant's claimed trademark and trade dress keeping in view the aforementioned provision of the Act.

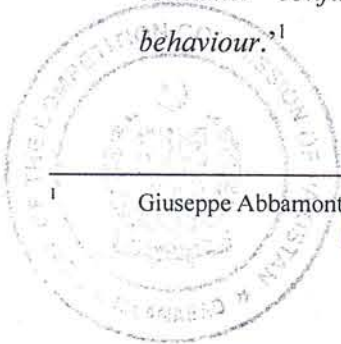


Attested To Be True Copy

Adnan Saeed Malik
Registrar
Competition Commission of Pakistan
Government of Pakistan
Islamabad

14 of 35

24. Section 10(2)(d) of the Act provides that the '*fraudulent use of another's trademark, firm name, or product labeling or packaging*' constitutes a deceptive marketing practice. In its **Order in the Matter Of Complaint Filed By M/s. DHL Pakistan (Pvt.) Ltd** (the '**DHL Order**'), the Commission while interpreting the term 'fraudulent' stated that '*while interpreting Section 10 of the Act; one needs to be conscious that the interpretation of the fraudulent use of trademark has to be in the context of deceptive marketing and would thus have a broader scope. Rather than making it too complex by focusing on subjective "intentions" of the Respondents, in our considered view, it is best if we adopt simplistic approach i.e. if it can be demonstrated that the Respondents by use of the trademark, intended to deceive the customer/consumer to gain an advantage. Keeping in view the nature of contravention, it is not the subjective intent but the objective manifestation of that intent that will establish the fraudulent use'.*
25. As stated in the Enquiry Report, it is pertinent to consider the issue of '*parasitic copying*' with regard to consumer deception in view of Section 10(2)(d) of the Act. As discussed in the **Order in the Matter Of Show Cause Notice Issued To M/S A. Rahim Foods (Private) Limited**(the '**K&Ns Order**'), although the term '*Parasitic copying*' is not defined under the Act, however it is imperative to discuss the concept with respect to the section 10(2)(d) of the act owing to the element of deceit it entails resulting in potential detriment to consumers. In the K&N Order, '*parasitic copying*' or '*copycat packaging*' has been defined by the Commission as '*the practice of designing the packaging of a product in a way that gives it the general look and feel of a competing, well-known brand (typically the market leader). Copycat packaging is distinct from counterfeiting since normally it does not infringe intellectual property rights. The risk posed by copycat packaging is consumer confusion, and consequently, distortion of their commercial behaviour.*'¹



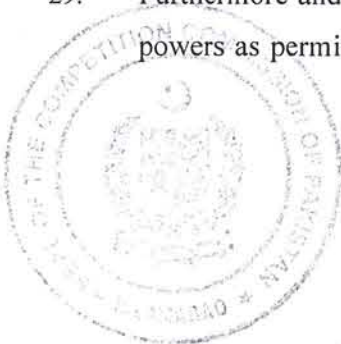
¹ Giuseppe Abbamonte, 'Copycat Packaging, Misleading Advertising and Unfair Competition'

Attested To Be True Copy

Adnan Saeed Malik
Registrar
Competition Commission of Pakistan
Government of Pakistan
Islamabad

15 of 35

26. The Commission in the K&Ns Order established that there exists an element of 'willful deceitfulness' along with 'free-riding' and 'passing off' in cases of both parasitic copying and a contravention of Section 10(1) in terms of Section 10(2)(d) of the Act. The Commission in the said Order held that, *'where there is evidence that an undertaking is guilty of parasitic copycat packaging, having the obvious foreseeable effect of misleading and causing deceitful confusion in the mind of the ordinary consumer, a violation in terms of Section 10(2)(d) will be made out'*.
27. Moreover, a practice is deemed to be materially deceptive for the purposes of Section 10(2)(d) of the Act if it involves marketing of a product which creates confusion with any products, trademarks, trade names or other distinguishing marks of a competitor, causing a consumer to wrongly believe that the product is made by the same manufacturer. Such a practice results in distorting the economic behaviour of consumers by directly or indirectly affecting their transactional decision.
28. The definition of a consumer, with respect to Section 10 of the Act, has been discussed extensively by the learned Commission in its **Order in the matter of M/s Pakistan Telecom Mobile Limited** (the 'Zong Order'). The Commission established in the Zong Order that the term consumer is to be construed as an 'ordinary consumer' but need not necessarily be restricted to the end consumer of the goods or services". The said Order further observed that *"...the scope of the term 'consumer' must be construed most liberally and in its widest amplitude. In my considered view, restricting its interpretation with the use of the words 'average', 'reasonable' or 'prudent' will not only narrow down and put constraints on the effective implementation of the provision it would rather be contrary to the intent of the law. It would result in shifting the onus from the Undertaking to the consumer and is likely to result in providing an easy exit for Undertakings from the application of Section 10"*.
29. Furthermore and notwithstanding the Commission's independent adjudicatory powers as permitted and within the scope of the Act, the Commission in the



Attested To Be True Copy


Adnan Saeed Malik
Registrar
Competition Commission of Pakistan
Government of Pakistan
Islamabad

 16 of 35

K&Ns Order, placed reliance on the judgment of the High Court of Sindh in *Messrs Golden Thread Industries v. J & P Coats Limited Company*², a case of "passing off" and deceptive measures pertaining to a trading specific commodity, wherein it was observed that "when all the three packets are kept side by side - for example in a showcase of the shopkeeper, an ordinary purchaser would not be able to distinguish between the three on account of the identical size of the packs in the backdrop of yellow colour with typical rectangular border running across the packing, they will tend to cause confusion in the mind of unwary purchaser. It is also to be noted that the goods of the opposing parties are to be offered in same and common outlets/sale points, therefore, if the packets are mixed with each other, an unwary buyer may be deceived". It was lastly concluded that "a particular colour scheme plays a vital part in the identification of a product... (and it is particularly so when such product is used mainly by illiterate persons)."

30. Although the Commission has used the standard of an "ordinary consumer" in its past decisions, in the context of aforesaid facts and the product in question, the Commission notes that Winda is not purchased by every other person. In other words, Winda is not consumed by the general populous. Most often, Winda is purchased by farmers and/or people involved in dairy farming at varied scales. The representations or sales practices of the Respondents being targeted to a specific audience, therefore, the Commission will determine the effects of the marketing practices on an average member of that group. Furthermore, as it has in the past, the Commission will evaluate the entire advertisement in terms of its general net impression in determining how the average consumer is likely to respond to the same and make their transactional decisions. Thus, in advertising and packaging of the product in question, the Commission will examine the entire mosaic, rather than each tile separately.
31. It is also imperative to discuss the concepts of 'trademark' and 'trade dress' in relation to Section 10(2)(d) of the Act. The term trade mark as defined in the Trademark Act 1940 means "a mark used or proposed to be used in relation to



² Reported as 2013 CLD 1945

Attested To Be True Copy

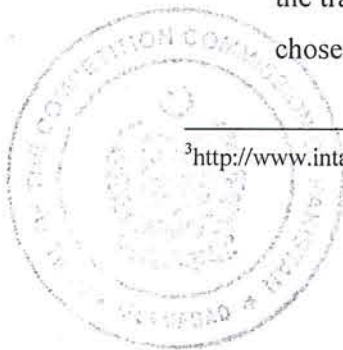
Adnan Saeed Malik
Registrar
Competition Commission of Pakistan
Government of Pakistan
Islamabad

17 of 35

goods for the purpose of indicating or so as to indicate a connection in the course of trade between the goods and some person having the right, either as proprietor or as registered user, to use the mark whether with or without any indication of the identity of that person"; whereas a mark is defined as, "(f) "mark" includes a device, brand, heading, label, any combination thereof;". The term trade dress has been explained in the Enquiry Report as "...the overall commercial image (look and feel) of a product that indicates or identifies the source of the product and distinguishes it from those of others. It may include the design or shape/configuration of a product; product labeling and packaging; and even the décor or environment in which services are provided. Trade dress can consist of such elements as size, shape, colour and texture, to the extent that such elements are not functional. In many countries, trade dress is referred to as 'get-up' or 'product design'."³

32. In light of the above legal observations in relation to Section 10 and specifically Section 10(2)(d) of the Act, the Commission's application of the same to the facts at hand and its conclusion as to each of the nine Respondents' conduct is as under.
33. For ease of reference, the Complainant's "Taizgaam" brand name/ logo, its shape, font type, size, and colours symbolized will be denoted as 'trademark', whereas, the colour combination, images, shapes, texts and their locations on the packaging of the Complainant's product will be referred to as 'trade dress' in this Order.
34. "Taizgaam" is an Urdu term which, when translated into English, means "Fast Speed". Since the term, "Fast Speed", is a unique name for the product and is not associated specifically with the product, i.e. animal feed (Winda) in any manner, it cannot be claimed to have been adopted by the Respondents as a generic term widely used in the industry. This further reinforces the fact that the trademark, "Taizgaam" is the Complainant's unique brand name that it has chosen artistically and innovatively for its product.

³<http://www.inta.org/TrademarkBasics/FactSheets/Pages/Trade-Dress.aspx>



Attested To Be True Copy

Adnan Saeed Malik
Registrar
Competition Commission of Pakistan
Government of Pakistan
Islamabad

18 of 35

35. A pictorial comparison of the Complainant's trademark and trade dress with the product packaging of each of the Respondents along with the Commission's analysis is as follows:

36. **The First Respondent**

i. The Commission finds it necessary to compare the product tags and bags of the Complainant's product with that of the First Respondent along with their respective trademark as well as trade dress.

Complainant's Packaging

First Respondent's Packaging



Complainant's Packaging

First Respondent's Packaging



Attested To Be True Copy

(Handwritten signature)

Adnan Saeed Malik
Registrar
Competition Commission of Pakistan
Government of Pakistan
Islamabad

(Handwritten signature)

- ii. On basis of the pictorial comparison, the Commission is of the fortified view that there is an identical usage or exact replica of the trademark and the trade dress of the Complainant by the said Respondent.
- iii. The Commission observes that the use of the Complainant's trademark and trade dress by the First Respondent is materially deceptive as it has a direct bearing on the transactional decision of the ordinary consumer, causing undeniable confusion in their minds as to the source of the product in question. Hence, the First Respondent's conduct amounts to the unauthorized and fraudulent use of the Complainant's trademark, packaging and product labeling within the meaning and scope of Section 10(2)(d) of the Act.

37. The Second Respondent

- i. The images below as reproduced, is that of the Complainant's product bag as compared with the Second Respondent's product bag and product tag:

Complainant's Tag

Second Respondent's Tag



- ii. As seen in the aforementioned images, it is observed by the Commission that the Second Respondent is involved in the practice of copying the Complainant's trademark as well as trade dress. The Second Respondent has introduced a minor differentiation in its brandname i.e. the word 'Mian' has been added before 'Taizgaam'

Attested To Be True Copy

(Signature)

Adnan Saeed Malik

Registrar

Competition Commission of Pakistan
Government of Pakistan
Islamabad



(Signature) *(Signature)*

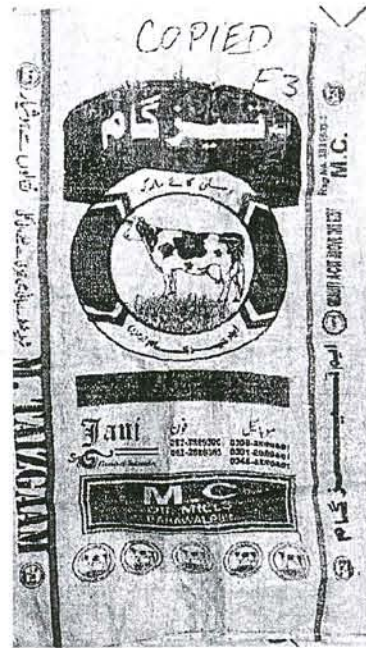
making the name 'Mian Taizgam'. However, the Commission is of the view that such a minor change or variation to the registered trademark of the Complainant is not a valid defense as it is undoubtedly capable of influencing the transactional decision-making ability of the consumer and causing confusion. It is a clear violation of Section 10(2)(d) of the Act, being materially deceptive. Moreover, the similar design, colour scheme and text on the packaging of the Respondent's product also constitute a violation of Section 10(2)(d) of the Act for 'fraudulent use of one's packaging and labeling'.

38. The Third Respondent

- i. The images of the product bags and product tags of the Complainant and the Third Respondent are reproduced as under:

Complainant's Packaging

Third Respondent's Packaging



- ii. On basis of a pictorial comparison of the aforementioned, it is observed by the Commission that the Third Respondent is using the exact same trademark and product labeling as that of the Complainant on the product tag. The product bag is also confusingly similar with regard to color scheme design and trade dress. The Third Respondent has added the nomenclature 'M.C.' before the trademark 'Taizgaam' making

Attested To Be True Copy

(Signature)

Adnan Saeed Malik
Registrar
Competition Commission of Pakistan
Government of Pakistan
Islamabad



(Signature)

(Signature)

it 'M Taizgaam'. The Commission is of the view that the Third Respondent is in contravention of Section 10(2)(d) of the Act as both the trademark and trade dress adopted by them is confusingly similar to that of the Complainant and as such is materially deceptive.

39. **The Fourth Respondent**

- i. The image comparison of the product bags and product tags of the Complainant with that of the Fourth Respondent is as follows:

Complainant's Packaging



Fourth Respondent's Packaging



Attested To Be True Copy

Adnan Saeed Malik
Registrar
Competition Commission of Pakistan
Government of Pakistan
Islamabad

Complainant's Tag



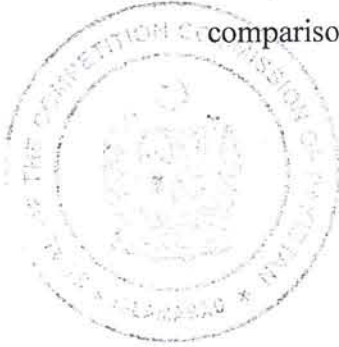
Fourth Respondent's Tag



- ii. It is observed by the Commission that there is an almost identical usage of the trademark and the trade dress of the Complainant by the said Respondent with minor variations, therefore its conduct is materially deceptive.
- iii. The Commission is of the fortified view that the Fourth Respondent is in violation of Section 10 (2) (d) of the Act for the fraudulent use of the Complainant's trademark and packaging.

40. The Fifth Respondent

- i. Depicted below are the product bags and product tags of the Complainant and the Fifth Respondent for purposes of a pictorial comparison:



Attested To Be True Copy

Adnan Saeed Malik
Registrar
Competition Commission of Pakistan
Government of Pakistan
Islamabad

Complainant's Packaging



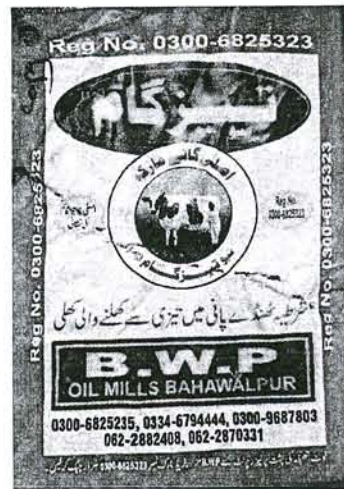
Fifth Respondent's Packaging



Complainant's Tag 1



Fifth Respondent's Tag 1



Attested To Be True Copy

Adnan Saeed Malik
 Registrar
 Competition Commission of Pakistan
 Government of Pakistan
 Islamabad

24 of 35

Complainant's Tag 2



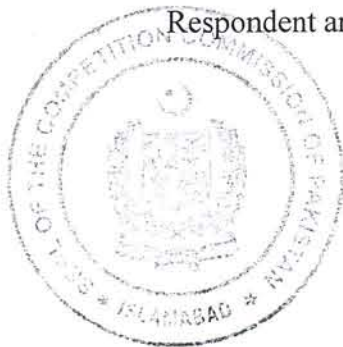
Fifth Respondent's Tag 2



- ii. It is observed by the Commission that the Respondent is using a trademark which is almost identical to that of the Complainant i.e. 'New Taizgaam'. Moreover, the colour scheme, style, and design of the brand name are also exactly the same as the Complainant's trademark. A comparison of the trade dress of the two products also makes it clear that the Respondent's conduct amounts to the parasitic copying of the Complainant's trade dress.
- iii. It is, therefore, the Commission's view that the Fifth Respondent has acted in contravention of Section 10(2)(d) of the Act and its conduct is materially deceptive.

41. The Sixth Respondent

- i. The images of the product bags of the Complainant and the Sixth Respondent are reproduced as under:



Attested To Be True Copy

Adnan Saeed Malik
Registrar
Competition Commission of Pakistan
Government of Pakistan
Islamabad

25 of 35

Complainant's Packaging



Sixth Respondent's Packaging



- ii. The Sixth Respondent is selling its product using the trademark "Geo Taizgaam", where the term "Geo" is written in a smaller font size than "Taizgaam".
- iii. As is evident in the pictures above, the colour scheme and design of the Respondent's bag is almost an exact replica of that of the Complainant. The placement of the logo as well as the language is also the same.
- iv. It is, therefore, the considered view of the Commission that the Sixth Respondent has acted in violation of Section 10(2)(d) of the Act, as it has fraudulently copied the trademark and trade dress of the Complainant and as such its conduct is materially deceptive in law and in fact.

42. The Seventh Respondent

- i. A view of the Complainant's and Respondent's packaging is given hereunder for reference:

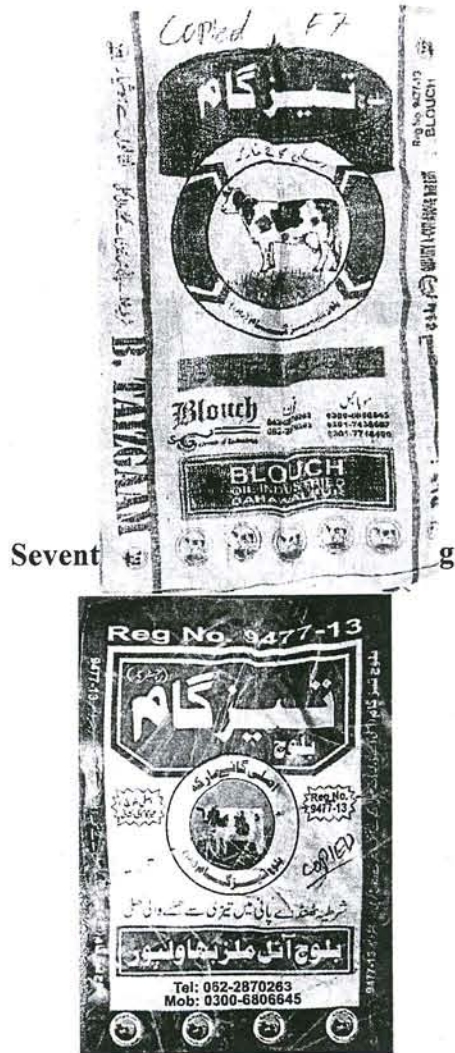


Attested To Be True Copy

Adnan Saeed Malik
Registrar
Competition Commission of Pakistan
Government of Pakistan
Islamabad

Complainant's Packaging

Seventh Respondent's Packaging



- ii. The Commission has taken cognizance of the fact that both products are using almost similar trademarks i.e. 'Taizgaam'. The Complainant's product is called 'Taizgaam' whereas the Respondent's product is called "Balouch Taizgaam". The term "Balouch" is written in a very small and negligible font size.
- iii. It is further observed that the Respondent is using a style, logo and color scheme on its packaging which is almost identical to that of the Complainant's packaging. As such the conduct of the Respondent is materially deceptive.



Attested To Be True Copy

(Signature)
Adnan Saeed Malik
 Registrar
 Competition Commission of Pakistan
 Government of Pakistan
 Islamabad

(Signature) 27 of 35

- iv. The Commission is therefore of the opinion that the Seventh Respondent has committed an infraction of Section 10(2)(d) of the Act, as the said Respondent is involved in copying the Complainant's trademark as well as trade dress.

43. **The Eighth Respondent**

- i. The images of the product tags of the Complainant and the Eighth Respondent are reproduced as under for purposes of pictorial comparison:

Complainant's Tag

Eighth Respondent's Tag



- ii. It is evident from the images above that both the Complainant and the said respondent are using similar trademarks on their products i.e. 'Taizgaam' with the label of "registered". The Complainant's product is called 'Taizgaam' whereas the Respondent's product is called "M Taizgaam". The alphabet "M" is written in a very small and negligible font size on the Respondent's Tag. The rest of the Respondent's logo is exactly the same as that of the Complainant's.

- iii. The Respondent has further used almost identical colour scheme and design as that of the Complainant's product tag.



Attested To Be True Copy

(Signature)

Adnan Saeed Malik
Registrar
Competition Commission of Pakistan
Government of Pakistan
Islamabad

(Signature)

28 of 35
(Signature)

- iv. The Commission observes that the Eighth Respondent has in fact copied the trade dress of the Third Respondent and has only added its own name tag and contact information at the end to create confusion.
- v. The actions of the said Respondent, therefore, also amount to a contravention of Section 10(2)(d) of the Act as its conduct is materially deceptive in terms of the unauthorized use of the Complainant's trademark as well as trade dress.

44. The Ninth Respondent

- i. A view of the Respondent's packaging besides that of the Complainant's packaging is given hereunder for the purposes of image comparison:

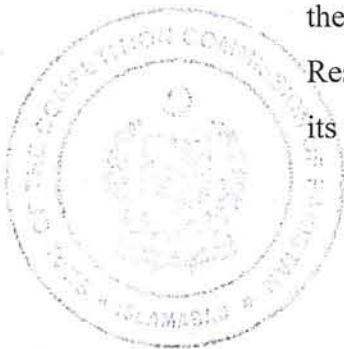
Complainant's Packaging



Ninth Respondent's Packaging



- ii. It is evident from the aforementioned images that the Ninth Respondent is engaged in the manufacturing and sale of a product similar to that of the Complainant with the name 'Pak Taizgaam', which includes the mere addition of the word "Pak" before the use of the Complainant's registered trademark 'Taizgaam'. Moreover, the Respondent has used the same colour scheme, design and language on its product bag as that of the Complainant.



Attested To Be True Copy

(Handwritten Signature)

Adnan Saeed Malik
 Registrar
 Competition Commission of Pakistan
 Government of Pakistan
 Islamabad

(Handwritten Signature) 29 of 35

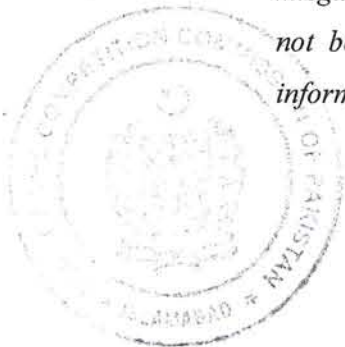
- iii. The Commission, therefore holds that the Ninth Respondent has acted in contravention of Section 10(2)(d) of the Act with regards to the fraudulent use of the Complainant's trademark and the copying of the Complainant's packaging and labeling, which conduct is materially deceptive.

ISSUE NO. II

45. With respect to this Issue, the Commission is required to determine whether the use of various trademark registration numbers without proof of their authenticity by the Respondents on their product labeling and packaging falls within the scope of the violation caught by Section 10(2)(b) of the Act.
46. Section 10(2)(b) of the Act provides that '*the distribution of false or misleading information to consumers, including the distribution of information lacking a reasonable basis...*' constitutes a deceptive marketing practice.
47. The terms "False" and "misleading" information have been interpreted by the Commission in the Zong Order to include:


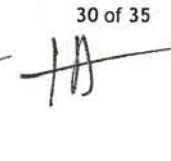
False information: "oral or written statements or representations that are: (a) contrary to the truth or fact and not in accordance with reality or actuality; (b) usually implied either conscious wrong or culpable negligence, (c) has a stricter and stronger connotation, and (d) is not readily open to interpretation...."

Misleading information: "may essentially include oral or written statements or representations that are: (a) capable of giving wrong impression or idea, (b) likely to lead into error of conduct, though or judgement, (c) tends to misinform or misguide owing to vagueness or any omission, (d) may or may not be deliberate or conscious, and (e) in contrast to false information, it has less erroneous connotation and is somewhat



Attested To Be True Copy


Adnan Saeed Malik
Registrar
Competition Commission of Pakistan
Government of Pakistan
Islamabad

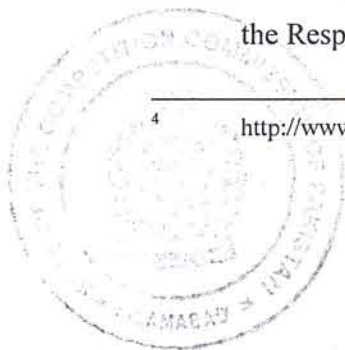
 
30 of 35

open to interpretation as the circumstances and conduct of a party may be treated as relevant to a certain extent”.

48. Furthermore, as relied upon by the Commission in its previous orders, ‘*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*’.⁴
49. The Respondents have printed various trademark registration numbers on their respective packaging giving an impression to the consumers that their brand name (use of the word “*Taizgaam*” or variations thereof as discussed in Issue I above) is trademark protected and authentic. Despite being required to substantiate this information time and again, the Respondents have failed to submit any response to the Commission to date. Consequently, no proof has been submitted by any of the Respondents regarding the validity of their supposed trademark registration numbers. Therefore, the Respondents have failed to discharge the burden of providing even the minimum level of substantiation for their claim as to the trademark registration numbers being valid and authentic. Such a claim which could directly or indirectly affect the transactional decision of the consumers is deemed to be materially deceptive.
50. Keeping in mind the above, the Commission is of the view that the conduct of the Respondents has resulted in a violation of Section 10(1) read with Section 10(2)(b) of the Act as the Respondents are involved in distribution of misleading information to consumers lacking a reasonable basis, by claiming to have registered trademarks in relation to their product without proof of the same.

ISSUE NO. III

51. With respect to this Point, the Commission is required to determine whether the Respondents’ packaging and product labeling including the use of the term



<http://www.cc.gov.pk/images/Downloads/Proctor-and-Gamble-Order-Finalized.pdf>

Attested To Be True Copy

Adnan Saeed Malik
Registrar
Competition Commission of Pakistan
Government of Pakistan
Islamabad

31 of 35

"*Taizgaam*" fall within the scope of the violation caught by Section 10(2)(a) of the Act.

52. Section 10(2)(a) of the Act provides that *'the distribution of false or misleading information that it is capable of harming the business interests of another undertaking'* shall be deemed to constitute a deceptive marketing practice.
53. The aforementioned sub-section of Section 10 of the Act has been discussed in great detail in the **Order In The Matter Of Show Cause Notice Issued To M/S Tara Crop Sciences (Private) Limited For Deceptive Marketing Practices** (the "**Tara Order**") with respect to the term *'business interest'*. Moreover, the Zong Order expounds upon the terms *'false'* and *'misleading'* which has already been discussed above in Issue II. Therefore, for the purposes of reaching a determination pertaining to this issue, the already interpreted meaning and scope of the terms "false or misleading" and "business interest" are being considered by the Commission for the matter at hand.
54. Moreover, the Commission in its Order **In The Matter Of Show Cause Notices Issued To Paint Manufacturers** (the '**Paint Order**'), established that in deceptive marketing cases, actual deception need not be shown rather the mere existence of possible deception is sufficient to hold the respondent liable for misleading consumers and harming the business interest of another undertaking.
55. Furthermore, in the event that there exists a contravention of Section 10(2)(d) by an undertaking, as determined in Issue I above, a simultaneous violation of Section 10(2)(a) is also assumed. Therefore, copycat packaging that is a contravention of Section 10(2)(d) of the Act, also amounts to the dissemination or distribution of misleading and deceptive information to the public. The consequence of the distribution of such information is such that it is capable of harming the business interests of the competitor whose trademark, product labeling and packaging have been copied. However, as discussed above it may be noted that no evidence of actual harm caused to an

Attested To Be True Copy



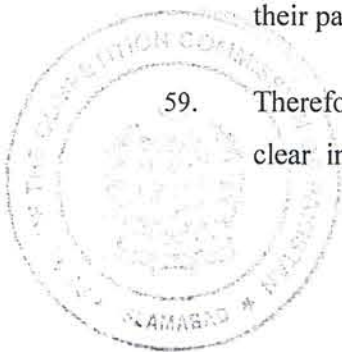
Adnan Saeed Malik
Registrar
Competition Commission of Pakistan
Government of Pakistan
Islamabad

32 of 35



undertaking is required for the determination of an infringement of Section 10(2)(a) of the Act, as long as it can be proved that such potential harm was capable or possible of being caused or foreseeable. Likewise, a violation of Section 10(2)(b) of the Act as determined in Issue II above, which involves the distribution of deceptive information that lacks a reasonable basis, is by the same token, capable of harming the business interests of competitors.

56. It is also imperative to elucidate here that Section 10(2)(a) has a much broader scope than Section 10(2)(d) of the Act. The Commission established in the K&Ns Order that *'While there are innumerable instances of misleading information that an undertaking may distribute to the targeted potential consumer and hence be culpable under Section 10(2)(a), a contravention of Section 10(2)(d) will almost in every circumstance lead to a consequent contravention of Section 10(2)(a) of the Act, unless there exist exceptional circumstances in a particular case that warrant otherwise'*.
57. The Commission in the instant matter is of the opinion that the Respondents' practice of parasitic copying of the Complainant's packaging and labeling as well as the unsubstantiated claims as to trademark registration are misleading and deceptive by their very nature, and therefore capable of harming the business interests of the Complainant. It is further observed that such demeanor of the Respondents is likely to cause eventual dilution of the Complainant's brand identity and goodwill which it has built over the years in terms of the visual recognition and distinctiveness of the trade dress of its product and associated trademark.
58. The Commission believes that the conduct of the Respondents, in the instant matter, is indeed intended to take advantage of the goodwill attached to Complainant's trademark and trade dress by misleading the consumer through the use of confusingly similar logos, colour scheme, design as well as language and unauthenticated trademark registration number appearing on their packaging. Such conduct is materially deceptive in fact and in law.
59. Therefore, the Commission further finds that the Respondents' conduct is a clear infraction of Section 10(2)(a) of the Act and hence amounts to the



Attested To Be True Copy

Adnan Saeed Malik
Registrar
Competition Commission of Pakistan
Government of Pakistan
Islamabad

33 of 35

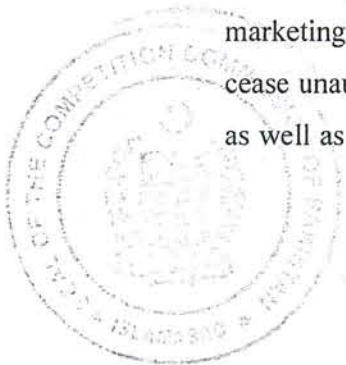
distribution of misleading information capable of harming the business interests of the Complainant.

REMEDY AND PENALTY

60. The Commission is of the considered view that clear contraventions of Section 10(1) of the Act stand established against all the Respondents in fact and in law and in terms of what has already been discussed above. However, in light of the willingness of the majority of the Respondents during the course of the hearings to act in accordance with the directions of the Commission on the one hand, and in the interest of justice to deter such practices on the other, the Respondents' are held liable to pay a penalty as follows:

- i. First Respondent: A sum of PKR 300,000 (Rupees Three Lakhs Only);
- ii. Second Respondent: A sum of PKR 300,000 (Rupees Three Lakhs Only);
- iii. Third Respondent: A sum of PKR 300,000 (Rupees Three Lakhs Only);
- iv. Fourth Respondent: A sum of PKR 300,000 (Rupees Three Lakhs Only);
- v. Fifth Respondent: A sum of PKR 300,000 (Rupees Three Lakhs Only);
- vi. Sixth Respondent: A sum of PKR 300,000 (Rupees Three Lakhs Only);
- vii. Seventh Respondent: A sum of PKR 300,000 (Rupees Three Lakhs Only);
- viii. Eighth Respondent: A sum of PKR 300,000 (Rupees Three Lakhs Only);
- ix. Ninth Respondent: A sum of PKR 300,000 (Rupees Three Lakhs Only).

61. Before parting with this Order, we deem it appropriate to direct all the Respondents to ensure responsible behaviour in future with respect to the marketing of their businesses. Furthermore, the Respondents are directed to cease unauthorized use of the Complainant's registered trademark 'Taizgaam' as well as their copycat packaging and unauthenticated trademark registration



Attested To Be True Copy

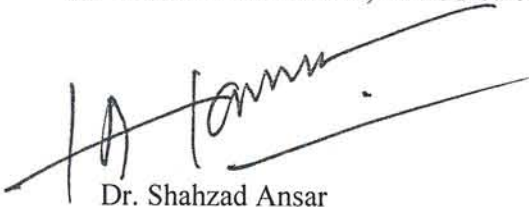
Adnan Saeed Malik
Registrar
Competition Commission of Pakistan
Government of Pakistan
Islamabad

34 of 35

numbers within a period of one month. The Respondents are directed to ensure that their products are repackaged in a manner that is distinct in its overall layout, design, shape, size, language and color scheme so as to be easily distinguishable from the Complainant's products and that trademark registration numbers should only be used on their packaging if they are authenticated.

62. The Respondents are also directed to file individual compliance reports and deposit the penalty with the Registrar of the Commission within a period of thirty (30) days from the date of issuance of this Order. The office of Registrar is further directed to carry on the survey of all the Respondents after the submission of the compliance report or on expiry of thirty (30) days, whichever is earlier. In case of failure to comply with the directions hereinabove, the Respondents shall be further liable to a penalty of Rs. 100,000/- (Rupees One Hundred Thousand Only) per day from the date of this Order till actual compliance and initiation of criminal proceedings under subsection (5) of Section 38 of the Act before a Court of competent jurisdiction.

63. In terms of the above, SCNs No.25 – 33/2016 are hereby disposed of.

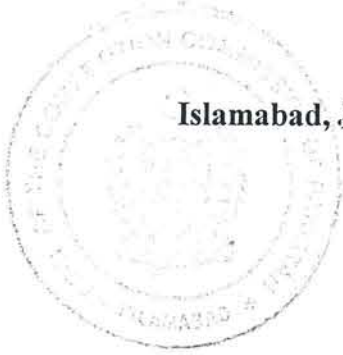


Dr. Shahzad Ansar
Member



Dr. Muhammad Saleem
Member

Islamabad, 29th December, 2017



Attested To Be True Copy



29-12-2017.

Adnan Saeed Malik
Registrar
Competition Commission of Pakistan
Government of Pakistan
Islamabad

