



**BEFORE THE
APPELLATE BENCH
COMPETITION COMMISSION OF PAKISTAN**

**Re- Karachi Stock Exchange (Guarantee) Limited
Lahore Stock Exchange (Guarantee) Limited,
(Appeals No.12&13 of 2009)**

Bench Members Mr. Khalid Aziz Mirza
Chairman

Mrs. Rahat Kaunain Hassan
Member (Legal)

Date of hearing: 17.04.2009

Present: 1. Mr. Haider Waheed, Advocate for Karachi
Stock Exchange;

2. Mr. Ahmed Hassan Khan, Chief Regulatory
Officer, Lahore Stock Exchange;

ORDER

1. Karachi Stock Exchange (Guarantee) Limited (**'KSE'**) and Lahore Stock Exchange (Guarantee) Limited (**'LSE'**) (both parties referred to, collectively, as **'the Appellants'**) have filed Applications for interim relief in their respective Appeals filed against the Order dated 18.03.2009 (**'the Impugned Order'**) by a single Member of the Competition Commission of Pakistan (**'the Commission'**) in the matter of imposing a floor upon the prices of securities traded at the three stock exchanges of the country, i.e. KSE, LSE and Islamabad Stock Exchange (Guarantee) Limited.

2. Reading section 32 with Rule 20 of the Competition Commission Appeal Rules, 2007 (**‘the Appeal Rules’**) the Appellate Bench is empowered to give such direction as it considers appropriate *inter alia* in a matter of urgency and for the purposes of protecting public interest. During the arguments on behalf of KSE suspension of the Impugned Order until the next date of hearing was prayed whereas, the representative for LSE prayed for the suspension of the impugned order till the final disposal of the its Appeal.

3. During the course of hearing on April 17, 2009, the counsel for KSE Mr. Haider Waheed argued that when the matter pertains to the execution of an order then the penalty imposed is not suspended and a deposit of penalty is required. However, in matters of appeal, such deposit is usually not required. He requested the Bench that the penalty of PKR 6 million imposed on KSE through the Impugned Order be suspended for the time being.

4. Regarding the impact on competition of the non suspension of the penalty, the Counsel for KSE submitted that while currently, competition at KSE is improving; non suspension of the penalty will adversely affect investor confidence.

5. LSE’s representative specifically stated that while LSE is of the view that placing of a minimum price floor had an adverse affect on the market and the investors; it has challenged the Impugned Order on legal grounds. Moreover, it was also stated that LSE under the prevalent circumstances at that time had no option but to follow KSE. It was argued that the Impugned Order has been challenged by LSE *inter alia* on ground that action taken by the LSE does not fall within the purview of Section 4 of the Competition Ordinance 2007 (**‘the Ordinance’**).

6. We note that under Rule 20(3) of the Appeal Rules, this Bench is required to exercise its power to grant interim relief after taking into account all the relevant circumstances, including the following three crucial factors; i) the urgency of the matter; ii) the effect on the party praying for relief, if relief is not granted; and iii) the effect on competition if relief is granted.

7. We are of the considered view that under the circumstances, the urgency in the matter can be appreciated to the extent that in the absence of a restraining order proceedings for recovery of penalty can be initiated by the Commission. As for the impact on competition vis-à-vis granting or not granting interim relief, since the floor upon the prices of shares has already been removed, restraining the recovery by grant of interim relief would not have any adverse impact. Also the Appellants have raised grounds which require due consideration and determination by this Bench which is likely to take time.

8. In view of the foregoing, in the interest of justice we deem it just and proper to grant relief to the Appellants to the extent that no recovery proceedings for the penalty imposed shall be initiated by the Commission till the final disposal of the Appeals.

(Khalid A. Mirza)
Chairman

(Rahat Kaunain Hassan)
Member (Legal)

Islamabad dated the 17th April 2009