



BEFORE THE
COMPETITION COMMISSION OF PAKISTAN
IN THE MATTER OF
SHOW CAUSE NOTICES ISSUED TO

CABLE MANUFACTURES
FOR DECEPTIVE MARKETING PRACTICES

(F. NO: 176/OFT/ELECTRIC CABLE/CCP/2015)

Date(s) of hearing: 15-12-2016
26-01-2017
26-09-2017
26-10-2017
19-07-2018

Commission: Dr. Muhammad Saleem
Member

Dr. Shahzad Ansar
Member

On special Notice under Section 53
of the Competition Act, 2010:

Noman A. Farooqi
Chief Prosecutor General

Ms. Sophia Khan
Prosecutor

Present on behalf of:

M/s Dawn Cables	Mr. Maqsood Afzal, Partner
M/s G. M. Cables and Pipes	Saood Nasrullah Cheema, Advocate Supreme Court
Fast Cable	Barrister Adeel Aftab, Zahid Lateef, Zonal Manager Mr. Kamal Mian, Director



M/s Hitech English Cables,	Mr. Usman Khan, Advocate Mr. Safdar Javed, Sales & Marketing
M/s Pak Muzaffar Cable	Miss. Misbah Ul Islam, Accounts Manager
M/s Alfa Plus Wire Cable	Sheikh Farooq Elahi Malik Amir
M/s Falcon Cable	Mian Abdul Majeed Qadri, Advocate Mr. Farooq Majeed, Advocate
M/s Hi Ace English Cable	Mr. Ahmed Anwar, Advocate Shiekh Muhammad Saeed Marketing Officer
M/s Gold Royal Cable	Mr. Muhammad Shahid, Owner
M/s Zafar Cable	Mr. Naveed Anwar, Owner
M/s Nation Cable	Shahid Maqsood Bhutta, Advocate
M/s Puller Cable	Mian Muhammad Nawaz, Advocate Mian Babar Hussain, Advocate
M/s Welcome Cables	Ms. Anum Ali, Malik Law Associates
M/s Dewan Cables	
M/s E-Flux Cables	Mr. Zahid
M/s Hero Cable	
M/s Lear Cables	Mr. S. M. Shahid Bukhari, Advocate Mr. M. Imran Arshad (ITP), Advocate
M/s Rana Cables	Rana Mukhtar Ahmed, CEO

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ORDER

1. This order shall dispose of the proceedings initiated pursuant to Show Cause Notices No. 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54 and 55 of 2016, dated 18th November 2016 (hereinafter collectively referred to as the 'SCNs') issued to the following undertakings (collectively referred to as the 'Cable Manufacturers') for *prima facie* violations of Section 10 of the Competition Act, 2010 (the 'Act'):

- | | |
|------------------------------|--|
| a) M/s Dawn Cables | (Dawn Cables or the 'First Respondent') |
| b) M/s G. M. Cables | (GM Cables or the "Second Respondent") |
| c) M/s Fast Cable | (Fast Cables or the "Third Respondent") |
| d) M/s Hitech English Cables | (Hitech Cables or the "Fourth Respondent") |
| e) M/s Pak Muzaffar Cable | (Pak Muzaffar or the "Fifth Respondent") |
| f) M/s Alfa Plus Wire Cable | (Alfa Plus Cables or the "Sixth Respondent") |
| g) M/s Hi Ace English Cable | (Hi Ace Cables or the "Seventh Respondent") |
| h) M/s Gold Royal Cable | (Gold Royal Cable or the "Eighth Respondent") |
| i) M/s Zafar Cable | (Zafar Cable or the "Ninth Respondent") |
| j) M/s Nation Cable | (National Cable or the "Tenth Respondent") |
| k) M/s Puller Cable | (Puller Cable or the "Eleventh Respondent") |
| l) M/s Welcome Cables | (Welcome Cable or the "Twelfth Respondent") |
| m) M/s Dewan Cables | (Dewan Cables or the "Thirteenth Respondent") |
| n) M/s E-Flux Cables | (E-Flux Cables or the "Fourteenth Respondent") |
| o) M/s Hero Cable | (Hero Cables or the "Fifteenth Respondent") |
| p) M/s Falcon Cable | (Falcon Cables or the "Sixteenth Respondent") |






- q) M/s Lear Cables (Lear Cables “**Seventeenth Respondent**”)
r) M/s Rana Cables (Rana Cables “**Eighteenth Respondent**”)

FACTUAL BACKGROUND

A. ENQUIRY AND SHOW CAUSE NOTICE:

2. The main issue under consideration in this matter is different electric cable manufacturing companies have adopted the practice of inserting cash/cash coupons of various denominations in the packing of their electric wire cable bundle. However, the packing of the electric wire cable bundle and other promotional material neither contain any indication of such scheme nor reflects the availability of coupons and their value placed therein. Keeping in view the above the Competition Commission of Pakistan (the ‘**Commission**’), after the primary analysis, initiated enquiry in accordance with sub-section (1) of Section 37 of the Act and directed the Enquiry Committee to undertake a fact finding enquiry and submit the report by giving their findings and recommendations *inter alia* whether their act was misleading and deceptive under Section 10 of the Act.
3. The Enquiry Report examined whether the Cable Manufacturers have contravened the provisions of Section 10 of the Act and concluded that due to the omission of disclosure about the placement of cash coupon on the packaging of the cable wire bundle the actual consumer remains unaware about the presence of cash coupon and hence it ultimately transfers the benefit of the cash coupon to the electrician instead of actual purchase of the product. Furthermore, omission of material information not only mislead the consumers about their purchase decision but it also gives a competitive edge to the undertaking omitting the material information over the other undertakings in the same line of business. Thus attracts the provisions of Section 10(1) in terms of Section 10(2)(a) & (b) of the Act.
4. Based on *prima facie* findings of the Enquiry Report and the recommendations contained therein, the Commission decided to initiate proceedings under Section 30 of the Act against the Respondent. A combined summary of the relevant portions of the SCNS are reproduced hereunder:



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7. *WHEREAS, in terms of the Enquiry Report in general and paragraphs 70 to 84 in particular, the inclusion of coupons in the bundles without due disclosure, is not only likely to mislead the end consumers while making their purchase decision but also such omission of material information appears to give an undue competitive edge to the Undertaking over its competitors; and*
8. *WHEREAS, in terms of the Enquiry Report in general and paragraphs 94 and 95 in particular, it appears that the Undertaking has omitted to disclose material information in respect of the coupons in bundles, which prima facie constitutes a violation of Section 10 of the Act; and*
9. *WHEREAS, the inclusion of coupons in the bundles without due disclosure, is not only likely to mislead the end consumers whilst making their purchase decision, but also such omission of material information is capable of harming the business interests of competitors, which prima facie constitutes a violation of Section 10 of the Act; and*
10. *WHEREAS, in terms of the Enquiry Report in general and paragraphs 124 to 127 in particular, the omission of aforementioned information during the course of marketing and advertising by the Undertaking is prima facie in violation of Section 10 (2) (a) and (b) read with Section 10(1) of the Act;”*

B. WRITTEN REPLIES BY RESPONDENTS:

5. Except Respondent No. 6, 9, 14, 15 & 18 all the Respondents have filed their written replies to the SCNs. The submissions made by the Respondents are as under:

i). **M/s Dawn Cables (Respondent No. 1):**

The Respondent No. 1 vide their letter dated 29-12-2016 stated that they offer the coupon only in one category on a random basis with attentions for all even for customers and electricians and stopped it last year after receiving Commission’s Enquiry Report. The said practice was only due to error and inadvertence and not a deceptive marketing practice. The Respondent also filed commitment pursuant to Part IV of Competition Commission (General Enforcement) Regulations, 2007 (the ‘GER’).

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ii). **G. M Cables & Pipe (Respondent No. 2):**

The Respondent No. 2 vide its reply dated 03-11-2016 submitted that they never adopted the practice of adding cash coupons of various denominations in the packaging of its electric cable/wire bundles. The reference case law given in the Enquiry Report titled as "**International Harvester Co; 104 F.T.C. 949 at page 1058**" are totally irrelevant to the present case. The Enquiry Officers misconstrued the design and trademark printed on the packaging of the wire/cable of the Respondent No.2. The moon and stars on the packaging of the Respondent No. 2 indicates its copyrights and trademark and the digits/numbers written thereon indicate the dealer reference code of the respective dealer. Furthermore, the conclusion drawn in the Enquiry Report is baseless and without substantial evidence on record.

iii). **M/s Fast Cables (Respondent No. 3):**

The Respondent No.3 vide their letter dated 11-12-2016 submitted that cash coupons mentioned in the Enquiry Report did not mention from where these coupons were obtained. Although in past Respondent No. 3 included cash coupons in the packaging of cable wire being sold to our customers directly but that practice was discontinued from start of the financial year 2015 and that is precisely, what was stated in our reply that we are not inserting any tokens. It is quite possible that finding of cash coupons could be a result of either availability of old stock at a sale point or counterfeit cables being sold in the marketing using counterfeit packaging and fake cash coupons. The Enquiry Officers of the Commission are aware of the fact that the Respondent had launched the dealership network with effect from 01-08-2015. They have also filed commitment pursuant to Part IV of GER.

iv). **M/s Hitech English Cables (Respondent No. 4):**

The Respondent No. 4 vide their letter dated 29-12-2016 stated that Commission has termed the adding of cash coupons of various domination on the packaging of electric cables/wire bundles as deceptive marketing practice of our undertaking. We oust ourselves from such allegations because



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we are leading manufacturer of high technology and quality cables and want to maintain our standard and quality control in the cable business. Cash coupons shown in the Enquiry Report were pasted on conspicuously through adhesive stickers which might have detached due to mismanagement in loading and unloading process. Furthermore, use of cash coupons was on temporary basis without compromising the quality. The placing of stickers on the packaging was with the intention to make the consumer aware about the presence of token. This was done due to downward trend of economy of Pakistan, low demand and strong competition amongst the cables manufacturers. Thereafter, the process of putting cash tokens was discontinued. The Respondent also filed commitment pursuant to Part IV of GER.

v). **M/s Pak Muzzaffar Cable (Respondent No. 5):**

The Respondent No. 5 did not file reply to the show cause notice. However its representative appear before the Commission on date of hearings and also file commitments pursuant to Part IV of GER.

vi). **M/s Alfa Plus Wire Cables (Respondent No. 6):**

The Respondent No. 6 vide their letter nil received in the Commission on 19-07-2018 submitted that they had already changed the packaging of their products which contains the disclosure of presence of coupons. This was done two years ago when enquiry was initiated by the Commission and the products with new packaging are available in the market for last two years. Furthermore they have also filed commitment pursuant to Part IV of GER for not violating Section 10 of the Act in future.

vii). **M/s Hi Ace English Cable (Respondent No. 7):**

The Respondent No. 7 vide their letter 26-01-2017 stated that long ago they have adopted a scheme to include cash coupons of various denominations to face the competition as it was prevailing in 2008 in the market. However, their packaging always indicated the presence of coupons and its promotional material to reflect the availability of coupons of their respective value. There was no hue and cry in the markets during this marketing campaign as



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this act was done before enactment of the Act and it is now passed and closed transaction. Furthermore, due to downward trend of business and its effect on cable manufactures it was dire need of the hours to meet the slump through such incentives.

viii). **M/s Gold Royal Cable (Respondent No. 8):**

The Respondent No. 8 did not file reply to show cause notice nor filed commitment pursuant to Part IV of GER. However, its owner did appear before the Bench and showed willingness to comply with the directions of the Bench.

ix). **M/s Zafar Cable (Respondent No. 9):**

The Respondent No. 9 did not file reply to the show cause notice nor filed commitment pursuant to Part IV of GER. However it's CEO appeared before the Bench and showed willingness to comply with the directions of the Bench and not to repeat deceptive marketing practices.

x). **M/s Nation Cable (Respondent No. 10):**

The Respondent No. 10 vide their letter dated 14-12-2016 vide their counsel Bhutta Law Associates submitted reply to the show cause notice. The counsel stated that show cause notice is illegal, unlawful being devoid and liable to be withdrawn. The Respondent No. 10 do have coupons on a random basis. The purposes of which is to discourage the seller counterfeit products and validity of the product. Furthermore, no disclosure is given on packaging, however, dealer and customers and fully aware of their presence. In this context the Respondent No. 10 referred Section 11(i) of Punjab Consumer Protection Act, 2005 which is as under:



“Where the nature of product is such that the disclosure of its component parts, ingredient, quality or date of manufacture and expiry is material to the decision of the consumer to enter into a contract for sale, the manufacture shall disclose the same.”

The Respondent No. 10 termed the enquiry one sided and stated that the undertaking was not summoned at the time of enquiry. It was reiterated that the coupons presented in the packaging as a surprise and they were forced to introduce tokens in their products and intention was not to deceive the consumers with false information.

xi). **M/s Puller Cables (Hafiz Electric Concern) (Respondent No. 11):**

The Respondent No. 11 vide letter dated 14-12-2016 stated that they did not deliberately violated not intended to violate the provisions of Section 10 of the Act and assure their compliance with the provisions of the Act. The inclusion of coupons in the wire and cable bundle was an innocent mistake and it did not amount to an undue competitive edge to the undertaking over its competitors. The Respondent No. 10 gave assurance that in future the will disclose the amount of coupons through proper printing and disclosure. The authorized representative also assured compliance to Commission's directions.

xii). **M/s Welcome Cables (Respondent No. 12):**

The Respondent No. 12 vide their letters dated 16-12-2016 and 16-07-2018 submitted that intention of the company was not to deceive the customers; it was just a market practice to facilitate the consumers as an incentive from the profit margins of the company. The company started to disclose the presence of token in the coils/bundle packs to the consumers and shown willingness to comply with the directions of the Commission. The Respondent No. 12 also filed commitment pursuant to Part IV of GER.

xiii). **M/s Dewan Cables (Respondent No. 13):**

The show cause notice served to undertaking was returned undelivered. Pursuant to Regulation 46(2) of GER the show cause notice was published in the daily "THE NEWS" dated 19-08-2017. But none appeared before the Commission in the subsequent hearings neither filed reply to the show cause notice.



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xiv). **M/s E-Flux Cables (Respondent No. 14):**

The Respondent No. 14 did not file reply to the show cause notice neither file commitments pursuant to GER. However, the authorized representative appeared before the bench and showed his willingness to comply with the directions of the Bench.

xv). **M/s Hero Cables (Respondent No. 15):**

None appeared on behalf of Respondent No. 15 neither reply to show cause notice was received

xvi). **M/s Falcon Cables (Respondent No. 16):**

The Respondent No. 16 vide its letter dated 21-01-2017 stated that they never adopted practice of inserting coupons of various denominations to enhance their sales. Since Falcon Cables are leading manufacturers of quality cables and to maintain their goodwill there is no need to involve in such deceptive marketing practices. Earlier the Respondent No. 16 launched this scheme for a limited period which was later discontinued. Now the packaging of Respondent No. 16 is stamped with Urdu Words یہ کوائل انعامی کوپن کا حامل ہے which was discontinued after a limited period. Now packaging did not include any such type of words.

xvii). **M/s Lear Cables (Respondent No. 17):**

The Respondent No. 17 vide their letter dated 24-01-2017 reiterated their stance earlier taken in the enquiry proceedings and forwarded the reply dated 13-05-2016 submitted to the enquiry officers. The Respondent No. 17 submitted that they never entered into deceptive marketing practices. As far as the practice of putting cash coupon/promotional material, when they have started the business all major market players were engaged in this practice hence they were forced to introduce the tokens in their products and in order to survive into the market they were forced to use the same marketing tools. Now the management has totally stopped the policy to promote the sale



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through cash coupon. The Respondent No. 17 also filed commitment pursuant to Chapter IV of the GER.

xviii). **M/s Rana Cables (Respondent No. 18):**

The Respondent No. 18 did not file any reply to the show cause notice. However its authorized representative appeared before the Bench and made the submissions that they will ensure compliance with the direction of the Commission in future.

C. SUBMISSIONS MADE DURING HEARINGS:

6. Hearings in the matter were held on 15-12-2016, 26-01-2017, 26-09-2017, 26-10-2017 and 19-07-2018. M/s Dewan Cables and M/s Hero Cables (hereinafter referred to as the '**Category I Respondent**') did not appear before the Bench, despite service of notices on them. The Chief Prosecutor General present during the hearing has proposed that the Bench should proceed under Regulation 26(2)(e) of the GER i.e. ex-parte against the said Respondents. M/s Gold Royal Cable (Respondent No. 8), M/s Zafar Cable (Respondent No. 9), M/s E-Flux Cables (Respondent No. 14) and M/s Rana Cables (Respondent No. 18) (hereinafter collectively referred to as the '**Category II Respondents**') did not file any written reply to the SCN or commitments, however, the owners of the said Respondents appeared before us and showed their willingness to comply with the directions of the Bench.
7. The Representatives of M/s Dawn Cables (Respondent No. 1), M/s Fast Cables (Respondent No. 3), M/s Hitech English Cables (Respondent No. 4), M/s Pak Muzaffar Cable (Respondent No. 5), M/s Alfa Plus Wire Cables (Respondent No. 6), M/s Welcome Cables (Respondent No. 12) and M/s Lear Cables (Respondent No. 17) (collectively referred to as the '**Category – III Respondents**') appeared before the Bench and submitted that they will discontinue the practice and will file the commitments in terms of Part IV of the GER with the Registrar of the Commission.

The representatives of M/s G.M. Cables & Pipe (Respondent No. 2), M/s Hi-Ace English Cables (Respondent No. 7), M/s National Cables (Respondent No. 10)



(hereinafter the '**Category IV Respondents**') contested the enquiry report and made the submissions that they have not committed any deceptive marketing practices. In fact, insertion of token in the cable packaging is an industry norm and they were left with no other option owing to the crunch and competition in the market to insert the token. However, they are ready and willing to comply with any direction issued by the Commission.

9. The representatives of M/s Falcon Cables (Respondent No. 16) (hereinafter the '**Category V Respondent**') made submissions that owing to the market trend, the Respondent concerned started the practice of inserting the token inside their packaging, however, the said practice was for a limited period of time and is discontinued.

ANALYSIS & DECISION

10. While the conciliatory and compliance oriented approach assured by various representatives of the Respondents need to be appreciated, it is pertinent to recognize that the main issue in this matter is to determine the misleading aspect of the subject practice i.e. whether, the lack of disclosure, regarding presence and value of the token in the cable pack is of such nature, that, it misleads the consumer. The submissions raised by the undertakings need to be examined and the given factors need consideration for such determination. Accordingly, the principle issue is:

Whether the practice of inserting tokens in the paint packs without due disclosure constitutes deceptive marketing practices under section 10 of the Act?

11. At the outset, it needs to be appreciated that the electric cables is a product which is not ordinarily purchased by the consumers themselves. Since, it requires technical expertise in installing the cables and hence, electric technicians are mainly involved in the process of purchasing the cable. It is expected by the Consumer that the technician can give a best advice for the purchase of a cable which is of high quality and reliable. Hence, it can be said without any iota of doubt that the tokens have been inserted in the Cable Packs for the benefits of the technicians and not the consumers. In almost all the instances, the consumer is not aware about the presence



of the token inside. This is because of the reason that the no reference is made on the packaging material of the cable packs.

12. Section 10 of the Act prohibits deceptive marketing practices and the relevant portion has been reproduced for ease of reference:

“Deceptive marketing practices. (1) No undertaking shall enter into deceptive marketing practices.

(2) The deceptive marketing practices shall be deemed to have been resorted to or continued if an undertaking resorts to:

(a)...

(b) the distribution of false or misleading information to consumers, including the distribution of information lacking a reasonable basis, related to the price, character, method or place of production, properties, suitability for use, or quality of goods;”

13. Although, it can be argued that the aforementioned definition of ‘**false and misleading**’ in the **Zong Order** does not hold ground as it is limited to oral and written statements, and in this case there was no advertisement at all. However, it needs to be appreciated that in the Zong Order it has been held that ‘*misleading information may essentially include oral or written statements or representations*’. The use of the words ‘may essentially include’ are indicative of its enumerative nature and are not exhaustive. Further according to Halsbury’s Laws of England (3rd ed. Vol. 26) “*A representation is a statement made by a representor to a representee and relating, by way of affirmation, denial, description or otherwise, to a matter of fact. The Statement may be oral or in writing or arise by implication from words or conduct*” (pg. 820). It is important to appreciate that the factum of insertion of a token in an electric cable packs without due disclosure would attract clause (b) subsection (2) of section 10 of the Act as in our view such product/pack would be lacking a reasonable basis related to the price printed for the consumer.

14. Accurate disclosure of important terms and conditions allows consumers to compare services/products offered by one or multiple providers and weigh the different terms being offered in making decisions about purchase. In the absence of



information pertaining to the value of rebates on price of the cable the ordinary consumer cannot be expected to adequately compare the two varieties of cables as the true price differential is not known at the time of purchase.

15. In the case of International Harvester Co., 104 F.T.C. 949 at pg. 1058, it was held that:

"[i]t can be deceptive to tell only half the truth, and to omit the rest. This may occur where a seller fails to disclose qualifying information necessary to prevent one of his affirmative

"It can also be deceptive for a seller to simply remain silent, if he does so under circumstances that constitutes an implied but false representation." statements from creating a misleading impression..."

16. Reference is also made to Cliffdale Associates, Inc., 103 F.T.C. 110, (1984), wherein it was held:

"[w]hen the first contact between a seller and a buyer occurs through a deceptive practice, the law may be violated even if the truth is subsequently made known to the purchaser."

17. Therefore, it does not suffice to argue that the presence of token was not disclosed at the time of sale as it is a hidden/surprise gift as even if the consumer finds out subsequently about the presence of token, which in this scenario is highly unlikely, it still has the potential to mislead. In American Home Products, 98 F.T.C. 136, 370 (1981) it was held that:

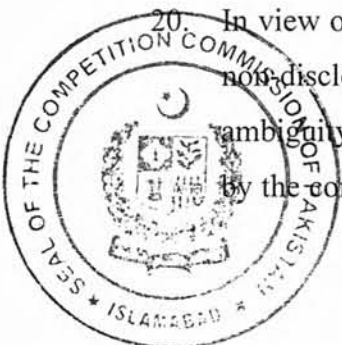
"...Whether the ill-effects of deceptive nondisclosure can be cured by a disclosure requirement limited to labelling, or whether a further requirement of disclosure in advertising should be imposed, is essentially a question of remedy. As such it is a matter within the sound discretion of the Commission. The question of whether in a particular case to require disclosure in advertising cannot be answered by application of any hard-and-fast principle. The test is



simple and pragmatic: Is it likely that, unless such disclosure is made, a substantial body of consumers will be misled to their detriment?"

18. Reference is also made to Guidance on UK Consumer Protection Regulations (2008) where Regulation 6 deals with omission or unclear and timely provision of material information. The list of information that is considered material includes the main factors consumers are likely to take into account in making decisions relating to products. While this is not a requirement for invoking Section 10, nonetheless, it is helpful to understand that this list includes "... (g) the price or the manner in which the price is calculated, (h) the existence of a specific price advantage,, (k) the consumers' rights or the risks he may face...". The criteria laid out reinforces the fact that the presence of token qualifies as material information. More specifically if it is narrowed down to just the criteria at (h) and (k) the token is a form of price advantage and it is the consumers' right to avail the monetary benefit derived from it and hence the undertakings should disclose the same in terms of section 10, as it would otherwise constitute deceptive marketing.
19. Careful perusal of the evidence gathered by the Enquiry Committee during the enquiry which culminated into the Enquiry Report, reveals that none of the Respondents have made a disclosure about the existence of token inside the cable packs. Further, none of the Respondents have denied placing of token inside the cable packs. We are inclined by the submission of the Chief Prosecutor General that in terms of the admissions by the Respondents of placing the tokens inside the packaging, no further proof is required. He has rightly placed reliance on Article 113 of the Qanun-e-Shahadat Order, 1984, which states that "no fact need to be proved in any proceedings which the parties thereto or their agents agree to admit by any hearing, they agree to admit by any writing under their hands, or which by any rule or pleading in force at the time they are deemed to have admitted by their pleadings."

20. In view of the above, it has been established in the preceding paragraphs that the non-disclosure of tokens in electric cable packs, is deceptive in that it creates ambiguity and is found lacking in having a reasonable basis as to the price borne by the consumer. Consumers are not informed about the presence of token and its



value, and it is placement in the centre of the cable makes its access to such information further difficult. The onus is on the Respondents to ensure that no deception results through their marketing practices. This could also have the adverse effect of giving an unfair competitive edge to Electric Cable Manufacturing offering higher token values without disclosures to the consumer who bears the price, as the technician would naturally have an incentive to purchase the cable containing higher token values, and other factors such as quality, durability may pale in comparison to this consideration. The practice of omission of material information with respect to the tokens in Electric Cable Packs amounts to misleading consumers, hence, is deceptive and in violation of section 10 of the Act.

21. While the Commission is empowered to prohibit deceptive marketing practices, it is not our mandate to require abandoning of any particular practice if due disclosures are in place. We consider it the Undertakings' prerogative to adopt or not to adopt any marketing practices; the Commission only has to ensure that such practices are compliant with Section 10 of the Act.

COMMITMENT & COMPLIANCE

22. We are appreciative of the fact that during the proceedings, almost all the Respondents have shown their willingness to comply with the directions, which may be issued in the circumstances. Further, many Respondents have also made the disclosures visible on the packaging and also submitted their packaging. A few have discontinued the practice of inserting the token inside the packaging.

23. Given the compliance oriented approach and the financial health of the Respondents, we are inclined not to impose higher penalty on the Respondents in the instant matter. In terms of Regulation 37 of the GER, despite the compliance, the Commission may impose a penalty upto PKR 7,500,000/- or upto 1% of the annual turnover of the undertaking concerned. In the instant matter, the Respondents have not only admitted that the token were placed inside, but have also increased their sales due the said practice by deceiving the consumers. Hence, we are constrained to impose the penalty to the tune of Rs. 5,000,000/- (Rupees Five Million Only) on M/s Fast Cables and M/s G.M. Cables & Pipes each, and on



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the rest of the Respondents a penalty of Rs. 500,000/- each is imposed. The penalty so imposed shall be deposited with the Registrar of the Commission within sixty days from the date of receipt of this Order.

24. The Respondents are also reprimanded that in case any of the Respondents is found engaged in deceptive marketing practice of this nature again, severe action shall be taken against them in accordance with law, in addition to imposition of penalty for non-compliance in terms of Section 38 of the Act and filing of criminal prosecutions in the Court of competent jurisdiction.

REMEDY

24. We are also of the view that in order to rectify the situation in the instant matter, following directions are issued to the Respondents for compliance:

(a). All advertisements, promotional materials, or instructional manuals pertaining to the Electrical Cable Packs; manufactured by the Respondents whether electronic, printed or otherwise are to be modified to disclose the presence and the price/value of the token on each pack for the consumer, within a period of 60 days starting from the date of receipt of the Order.

(b). The Respondents, within sixty days from the date of receipt of this Order, shall issue four (4) advertisements/public notices of A-4 size, to be published at least at fifteen (15) days interval in at least two Urdu and two English newspapers of national circulation; making due disclosures to the public regarding the presence and price/value of token/coupon and the category of products in which these tokens are found present. The 'Public Notices' may be published by the undertakings on an individual or collective basis. The text and content of such advertisement prior to publication shall be cleared by the Office of Registrar of the Commission.



(c). The disclosure with respect to the token on the Electric Cable Pack mentioned at (i) above should be made with the use of

bright/conspicuous colors distinct from the color of the packaging of pack and should be printed in clear, bold and legible size.

- (d). Compliance report with respect to implementation of the aforementioned directions must be filed by the Respondents no later than sixty (60) days from the date of this Order with the Office of Registrar. Continued violation and/or non-adherence to the directions of the Commission, by any of the Undertakings shall entail penal consequences.

25. In terms of the above, the SCNs are hereby disposed of.

M. Jaleel
Dr. Muhammad Saleem
Member

JA
Dr. Shahzad Ansar
Member

ISLAMABAD, THE 26th DAY OF MARCH 2019.

