



BEFORE THE
COMPETITION COMMISSION OF PAKISTAN

IN THE MATTER OF

SHOW CAUSE NOTICE ISSUED TO
M/S RELIANCE PAINTS PAKISTAN

(F. NO: 31/RP/C&TA/CCP/2015)

Date(s) of hearing: 22-11-2016
07-09-2017
21-02-2018

Commission: Dr. Shahzad Ansar
Member
Dr. Muhammad Saleem
Member

Present on behalf of:

Mr. Akzo Nobel Pakistan Ltd
(Complainant)

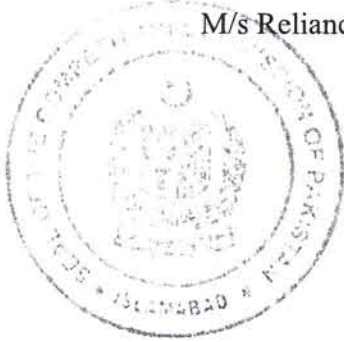
Mr. Mussadiq Islam, *Advocate*
M/s Cornelius, Lane & Mufti

Mr. Usman Ali, *RSM Deco Sales*

Ms. Sara Shah

Mr. Kamran Idris, GM

Muhammad Imtiazuddin Zubairi
Advocate
Zubairi Law Associates



M/s Reliance Paints Pakistan

ORDER

1. This order shall dispose of the proceedings initiated pursuant to Show Cause Notice No. 37/2016 dated 08 November 2016 (the 'SCN'), issued by the Competition Commission of Pakistan (the 'Commission') to M/s. Reliance Paints Pakistan (the 'Respondent'), for *prima facie* violation of Section 4 of the Competition Act, 2010 (the 'Act'). The SCN was issued pursuant to an Enquiry Report dated 02 November 2016 (the 'Enquiry Report') initiated after a Complaint was lodged with the Commission by M/s Akzo Nobel Pakistan Limited (the 'Complainant'), alleging *inter alia* that the Respondent is engaged in fixing the minimum resale price at which its dealers or distributors/retailers may sell its products and monitoring and penalizing them in case of non-compliance with the prices so fixed.

FACTUAL BACKGROUND

A. PARTIES TO THE PROCEEDINGS:

2. The Respondent is a company engaged in the manufacturing and supply of paints and allied products in Karachi and interior Sindh. The Complainant is also active in the business of paints, performance coating and specialty chemicals. Both the Respondent and the Complainant are undertakings within the meaning and scope of clause (q) of sub-section (1) of Section 2 of the Act as they are engaged in the production, supply and distribution of goods i.e. paints and allied products, within Pakistan.

B. ENQUIRY AND SHOW CAUSE NOTICE:

3. The Complainant alleged that the Respondent is a manufacturer of paints and allied products, and is engaged in anticompetitive practices by fixing minimum resale price, in contravention of Section 4 of the Act. Moreover, the Complainant alleged that the Respondent has circulated a flyer/ letter on 01 May 2015 (hereinafter, the 'Circular') to all its paint dealers or distributors/retailers in the city of Karachi intimating that:

- i. the Respondent has fixed the retail price of its products and required its dealers to sell the products only at its fixed retail price;



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- ii. this practice has been going on for some time and the Respondent has, on various occasions, cut-off supply and imposed penalties on dealers who sell at prices other than the Respondent's fixed prices;
 - iii. the Respondent has proposed a new mechanism to enforce its price-fixing and penalize non-compliant dealers;
 - iv. the Respondent requests its dealers not to sell its products to any other dealers, except those authorized by it.
4. For ready reference, the said Circular is reproduced hereunder:

Annexure - A

RELIANCE PAINTS PAKISTAN

01-05-2015

Date: _____

اطلاع برائے ڈیلر حضرات

ریلائنس پینٹ کمپنی اپنے تمام ڈیلر حضرات کو مطلع کرتی ہے کہ بار بار کہنے کے باوجود کچھ ڈیلر حضرات ریٹ کی خرابی کا سبب بنتے رہے ہیں کمپنی نے ایسے تمام ڈیلر کے مال کی سپلائی بند کر کے بھی نوٹس لیا نیز جرمانہ بھی عائد کیا گیا لیکن کچھ فرق نہیں پڑا لہذا کمپنی نے اب فیصلہ کیا ہے کہ انوائس کا 8% ڈسکاؤنٹ یکم مئی سے ختم کر دیا جائے گا جو ڈیلر حضرات کمپنی کے مقرر کردہ ریٹ پر مال فروخت کرتے ہیں ان ڈیلر حضرات کو ہر ماہ کے 30 تاریخ کو جتنا مال کمپنی سے لیا ہوگا اس کا 8% ڈسکاؤنٹ دے دیا جائے گا۔

(1) پہلی شکایت پر کمپنی اس ڈیلر کا 8% ڈسکاؤنٹ 0% کر دے گی۔

(2) دوسری شکایت پر کمپنی اس ڈیلر کا سالانہ ڈسکاؤنٹ میں 5% کم کر دیا جائے گا۔

(3) تیسری شکایت پر اسکی ڈیلر شپ فوری طور پر ختم کر دی جائیگی۔

کمپنی اپنے تمام ڈیلر حضرات سے گزارش کرتی ہے کہ کمپنی کے مقرر کردہ ڈیلر کے علاوہ کسی ڈیلر کو مال فروخت نہیں کرے گا۔

امید ہے کہ تمام ڈیلر حضرات اپنے منافع اور کمپنی کے مفاد کیلئے کمپنی سے تعاون کریں گے۔

Plot No. 319/20, Ser. 31/A, Korangi Industrial Area, Karachi. Tel: 35112608-9, 35052890, UAN: 111-514-513
Info@reliancepaints.com www.reliancepaints.com



The Circular suggests that the Respondent has notified its dealers that if they:

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- i. sell the products on the fixed prices, the Respondent shall allow a discount of 8% on their monthly purchase;
 - ii. sell the product on a price other than the fixed prices, the Respondent shall not allow a discount of 8%, on a report of the first complaint;
 - iii. sell the product on a price other than the fixed price, the Respondent shall reduce dealers' yearly discount to 5%, on a report of the second complaint;
 - iv. sell the products on a price other than the fixed price, the Respondent shall terminate their dealership immediately on a report of the third complaint; and
6. In addition, the Circular requires all the Respondent's dealers not to sell its products to other dealers, except those authorized by the Respondent.
7. On 17 August 2015, the Commission constituted an enquiry committee (the 'Enquiry Committee') to probe into the matter for *prima facie* violation(s) of Section 4 of the Act. On the same date the Enquiry Committee wrote to the Respondent, sharing with it the contents of the Complaint and requested it to furnish its comments along with the information pertaining to its dealers; documentary record of action taken against the dealers who have not complied with the pricing policy and copy(s) of its dealership agreement(s). The Respondent, through its counsel, denied having any dealers and instead claimed that it had customers or shopkeepers for the purposes of distribution and sale of its products. Furthermore, while denying having ever entered into any dealership agreements, the Respondent admitted that it had certain tacit arrangements in place amongst its customers. A list of five shopkeepers appointed by the Respondent, to distribute/ sell its products, was submitted to the Commission. During the Enquiry, the Respondent also submitted details of the terms of the tacit agreements it had with its shopkeepers pertaining to the mode of payment, discount/ commission, rate and transportation

which is reproduced hereunder:



1- MODE OF PAYMENT

Payment is received Rs. 2,000/- per week on sale goods of up to 20,000/-

2- DISCOUNT/ COMMISSION

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8 to 10% or depending upon the quantity and payment schedule.

3- RATE

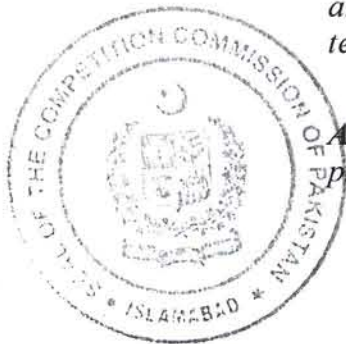
As per printed price on goods/articles

4- TRANSPORTATION

Provided by manufacturers up to the place of the shopkeeper.

8. The Enquiry Committee also took into consideration the comments of the dealers of the Respondent, one of which stated that it was engaged in the sale of paint products of different types and brands, including those manufactured by the Respondent. It was further submitted that the Respondent has imposed a condition not to sell below the price specified by it. Furthermore, the said dealer stated that since it has never sold below the fixed price, hence the Respondent has had no grievance against him to date.
9. The Enquiry Committee after analysing all the material available on the record, completed the Enquiry by producing the Enquiry Report, which concluded that "*the Respondent is prima facie involved in imposing a vertical restraint on its dealers by maintaining a minimum resale price that appears to be in contravention of Section 4(2)(a) of the Act.*" However, with regard to the restriction imposed by the Respondent on its dealers, not to sell its products to unauthorized dealers, the Enquiry Committee concluded that the condition is recommendatory in nature, hence it did not find the same to be a contravention of the provisions of the Act.
10. In view the foregoing, the Enquiry Committee recommended initiating proceedings under Section 30 of the Act. On 08 November 2016, the Commission issued the SCN to the Respondent, the relevant parts of which are reproduced herein below:

"AND WHEREAS, in terms of the Enquiry Report in general and paragraphs 11-12 in particular, the individual markets for paint and each of its products supplied by the Respondent in areas of Karachi and Interior Sindh have been identified as the 'relevant market' in terms of Section 2(1)(k) of the Act;



AND WHEREAS based on paragraphs 14-24 the Respondent is prima facie involved in imposing a vertical restraint on its dealers by

maintaining a minimum resale price that appears to be in contravention of Section 4(2)(a) of the Act;”

11. The Commission also notified the Respondent to appear before it either in person or through a duly authorized representative on 22 November 2016, to avail its opportunity of being heard, and place on record facts and material in support of its contentions.

C. HEARINGS AND SUBMISSIONS OF THE PARTIES

12. During the course of the first hearing before the Bench of the Commission held on 22 November 2016, the Complainant’s counsel reiterated its stance reproduced above and supported the findings of the Enquiry Report. Furthermore, the Complainant requested the Bench to take appropriate measures to remedy the anticompetitive effects of the practices of the Respondent. While the Respondent did not file a reply to the SCN or objections to the Enquiry Report, its counsel argued that it is a small player in the relevant market and that it had issued the aforesaid Circular and imposed a minimum resale price on its dealers who are actually shopkeepers in the region. It was stated on behalf of the Respondent that it was ready to comply with the directions of the Commission to rectify the situation through the submission of a commitment pursuant to the Competition Commission (General Enforcement) Regulations, 2007 (the ‘**General Enforcement Regulations 2007**’). Two further hearings were held in the matter on 7 September 2017 and 21 February 2018, wherein the Respondent’s original commitment dated 22 December 2016 and the amended commitment dated 19 February 2018 were considered by the Commission. During the said hearings, the Respondent was also directed to submit a list of its dealers and documentary evidence of its sales turnover for the preceding year. Consequent to such direction of the Bench, a list of 75 dealers and the Income Tax Returns for the year 2013-2014 were submitted during the course of the hearings, and thereafter vide Letter dated 2 March 2018 from the Respondent’s Counsel, copies of the annual audited accounts of the Respondent for the last two years (year end 30 June 2016 and year ended 30 June 2017) was also received by the Commission. Consequently, the Bench concluded the hearings and reserved the matter for a final adjudication.



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ISSUES FOR DETERMINATION

13. The material issues that emerge from the submissions made by the parties are as follows:
- A. *What is the relevant market, in the instant matter, in terms of clause (k) of subsection (1) of Section 2 of the Act?*
 - B. *Whether the Respondent's practice to request its dealers to not sell its product to other dealers who are not authorized dealers of the Respondent's products amounts to exclusive dealing and as such is a violation of Section 4 of the Act?*
 - C. *Whether the Respondent's practice to force its dealers, not sell its product below a certain price amounts to minimum resale price maintenance and as such is a violation of Section 4 of the Act?*

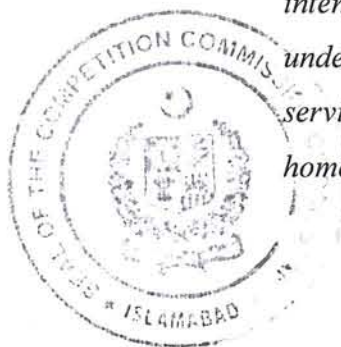
DELIBERATION AND ANALYSIS

14. The Bench has heard the respective legal counsels appearing for the parties, besides perusing all the material available on record. Furthermore, at the outset, the Commission deems it necessary to define/ delineate the relevant market in the instant case, before proceeding with an analysis of the issues demarcated above.

ISSUE A: *What is the relevant market, in the instant matter, in terms of clause (k) of subsection (1) of Section 2 of the Act?*

15. According to clause (k) of subsection (1) of Section 2 of the Act the 'relevant market' for the purposes of the Act has been defined as:

"Relevant Market "means the market which shall be determined by the Commission with reference to a product market and a geographic market and a product market comprises of all those products or services which are regarded as interchangeable or substitutable by the consumers by reason of the products' characteristics, prices and intended uses. A geographic market comprises the area in which the undertakings concerned are involved in the supply of products or services and in which the conditions of competition are sufficiently homogenous and which can be distinguished from the neighbouring



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geographic areas because, in particular, the conditions of the competition are appreciably different in those areas."

16. In light of the above, the relevant market for any product (goods or services) entails two factors, one being the relevant product market and the other, the relevant geographic market.
17. To analyse the relevant market in a case of vertical restraint allegations under Section 4 of the Act, it would first be appropriate to define the upstream and downstream markets as there appear to be several product markets such as that for paint and the market for each of the products related to paint that are supplied by the Respondent to its dealers.
18. In regard to the market definition, the Commission has observed in various previous determinations that the main objective of market delineation is to identify in a systematic way the competitive constraints that an undertaking could create or might face. Furthermore, the objective of defining a market in terms of the product market and geographic market is to assess the actual competitors (to the undertakings involved) that have the potential of constraining an undertaking's behavior.
19. This case essentially pertains to the vertical restraints perpetuated by the Respondent with its dealers or distributors/retailers. Vertical restraints involve agreements/ arrangements (whether or not in writing) between two or more undertakings operating at different levels of production of goods or provision of services. From this viewpoint, the Respondent operates at the vertically "upstream level" of production of paint and allied products, whereas its dealers or distributors/retailers operate at the vertically "downstream level" of distribution and sale of the products to end-consumers.
20. Furthermore, while depending on the type of paint and allied products, the primary market may be subdivided into various segments, the Bench is of the opinion that subdivision of the primary market into various segments based on the competitive pressure or effective competitive constraints is irrelevant whether the primary market for particular paint or allied products is considered to single monolith relevant market or is divided into separate relevant markets depending on



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characteristics of paint type, its price, or its intended use. This is because the alleged anticompetitive conduct pertains to restraints on dealership or distribution/retail of the Respondent's products. Accordingly, the Bench is of the opinion that the upstream product market, in the instant case, is the market for all paint and allied products manufactured by the Respondent.

21. With regard to the relevant geographic market, the Bench observes that paint products (including those manufactured by the Respondent) could be sold/purchased in the entire country, though different freight rates, among other things, may be applicable. Further, in the case of the majority of paint companies, their dealership networks are prevalent across Pakistan. Accordingly, the upstream geographic market consists of the entire territory of Pakistan.
22. As noted above, this case pertains to the vertical agreements/ arrangements entered into by the Respondent with its dealers or distributors/retailers. While the Respondent operates at the upstream level of paint products, its dealers or distributors/retailers operate vertically downstream, which consists of the distribution and sale of its products to end-consumers.
23. For the purposes of determining demand-side substitutability, if a consumer intends to purchase Respondent's paint products, the consumer would visit a dealership authorized by the Respondent. While the consumer may consider different brands for paint as substitutable (for instance, Master, Nippon, Berger, Diamond), a consumer would nevertheless visit the Respondent's dealers or distributors/retailers to purchase its paint. Further, a majority of the Respondent's dealers (and the majority of all dealers in Pakistan) might not stock or sell paints of competing brands, *albeit* the same family or company may own dealership of multiple brands. In most part of Pakistan, there are only an insignificant numbers of the multi-branded dealerships. Accordingly, the product market, in the instant case, is determined as a market for the dealers or distributors/retailer of the Respondent's paint products.



24. In line with the above legal and economic assessment, the downstream geographic market may be taken as the territory of Pakistan, as the conditions of competition for the distribution and dealership of the Respondent's and competing products are

homogeneous across the country. Though there may be price difference owing to freight cost and other characteristics of the product, the Respondent could appoint dealers or distributors/retailers and sell its products in the entire territory of Pakistan. Accordingly, the relevant downstream geographic market is defined as the whole of Pakistan.

ISSUE B: *Whether the Respondent's practice to request its dealers to not sell its product to other dealers who are not authorized dealers of the Respondent's products amounts to exclusive dealing and as such is a violation of Section 4 of the Act?*

25. The Complainant has alleged that the Respondent's practice to request its dealers not to sell its products to others who are not authorized by the Respondent, amounts to an exclusive purchasing and supply arrangement and is restrictive of competition in contravention of Section 4 of the Act.
26. In this regard, it is observed that the restriction does not invite any penal consequences such as reduction or elimination of dealers' margin or cancellation of their dealerships.
27. Viewed in the above backdrop, the Commission notes that exclusive dealings may consists of *any restrictive trading conditions with regard to sale or distribution of any goods or the provision of any services*, especially by which the purchaser/buyer of goods in the course of his trade, is restricted or prevented, from acquiring or selling or otherwise dealing, in any goods or services other than those of the seller or any other person. These agreements or arrangements may be reflected in contractual provisions specifying exclusivity, whereby buyer must only source from the seller or buyer must source a specified quantity from the seller. Such exclusivity is generally known as *de jure* exclusivity. However, exclusivity need not be expressly stated, but it could be *de facto* result of agreements or a seller's policy not deal with a purchaser that purchases its rivals' products. Likewise, exclusivity may be induced by creating direct or indirect disincentives to turn to the alternate source of supply or distribution channels or making the discount conditional on exclusivity, either explicitly or in effect. For instance, where a buyer receives a rebate if its sources most of its needs from a particular seller. It is further noted that such purchasing conditions may result in a reduction of intra-brand competition as well



as foreclosure of alternate supply channels given the market power of the parties in the upstream or the downstream segment.

28. In view of the above, the Bench finds that in the absence of the Complainant having adduced any credible evidence to support its allegations, the Circular does not contain mandatory instructions for the Respondent's dealers to cease from taking up dealership of competing manufacturers or supplier of paint in *toto*. Furthermore, one of the dealers of the Respondent has stated that it is engaged in selling other local brands. Accordingly, it cannot be concluded that the Respondent imposes an effective exclusive supply obligation on its dealers. Lastly, a perusal of the case record suggests that the dealer or distributor/retailers were never prevented by Respondent in dealing with the competing brands.
29. Based on the above, the Bench is of the considered view that the Respondent has not contravened Section 4 of the Act by merely requesting its dealers or distributors/retailers not to sell its products to dealers not authorized by the Respondent.

ISSUE C: Whether the Respondent's practice to force its dealers, not sell its product below a certain price amounts to minimum resale price maintenance and as such is a violation of Section 4 of the Act?

30. The Commission observes that the Enquiry Report has identified minimum resale price maintenance as the anticompetitive conduct perpetuated by the Respondent with its dealers or distributors/retailers. More specifically, the Enquiry Committee has found that the Respondent has imposed certain conditions on its dealers or distributors/retailers which are meant to maintain and enforce resale price maintenance or RPM, in contravention of Section 4(2)(a) i.e. "fixing [...] the selling price or imposing any other restrictive trading conditions with regard to the sale or distribution of any goods [...]". (emphasis added)

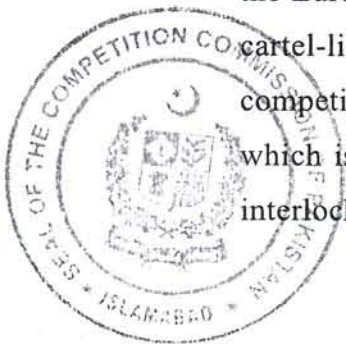
31. In the context of the term "agreement", the Commission notes that under clause (b) of subsection (1) of Section 2 of the Act, it is defined as "agreement" includes any arrangement, understanding or practice, whether or not it is in writing or intended to be legally enforceable". Therefore, the application of Section 4 of the Act is not limited to formal legally binding contracts. Rather the aforementioned definition of



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“agreement” encapsulates cooperation and/or arrangements achieved through informal agreements, understandings, circulars or practices, including decisions by associations of undertakings. In principle, Section 4 of the Act prohibits all kinds of practices which may restrict, distort, or prevent competition.

32. In the instant case, the Respondent has evidently imposed upon its dealers or distributor/retailers a minimum resale price to sell its products which constitutes a violation of clause (a) of subsection (2) of Section 4 of the Act as such arrangements are considered to be restrictive of intra-brand competition and price fixation by their object.
33. It is further observed that in verbalizing their agreements the Respondent has fixed the ex-shop price of its products, which, directly or indirectly, is imposed on the end-consumers. Ostensibly, the dealers or distributors/retailers margin is also included in the ex-shop price, which could be up to 8% of the total sales if the dealer or distributor/retailer is compliant with the Respondent’s directions. Subsequently, *vide* the Circular and the Enquiry Committee’s correspondence with the dealers as well as the submissions made by the Respondent, it transpires that dealers or distributors/retailers are not permitted to grant a discount to consumers in any manner. Thus, while the price at which the Respondent’s products can be sold is fixed by the Respondent from time to time, the dealers or distributors/retailers are not permitted to charge a price lesser than the selling price so fixed.
34. The Bench notes that the Act in general, and Section 4 in specific dictates that the buyers/resellers (whether dealers, distributors, or retailers) must remain free to determine their resale price. Before concluding the discussion on this aspect, the Bench deems it appropriate to refer to the European Commission’s Notice on Vertical Restraints of 2010 (the ‘EC Notice’), which encapsulate the impact of, direct or indirect, imposition of minimum, fixed, maximum and recommended resale price as hardcore violation of Article 101 of the Treaty on the Functioning of the European Union. It is further noted in the EC Notice that RPM could facilitate cartel-like behavior among suppliers or dealers; reduction in intra-brand competition as certain distributors will be prevented from lowering their sale prices, which is likely to result in direct increase in price; soften competition by way of interlocking relationship whereby suppliers use the same retailers for distribution of



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their products; cause prices to inflate as the immediate effect of any such restraint is increase; lower the price for subsequent distributors and to reduce the pressure on its margin; in case of a manufacturer with dominant position to foreclose smaller rivals as well as lowering of dynamism and innovation in the distribution chain or in the downstream market, among other things.

35. Based on the above, the Commission is of the considered view that the above agreements/ arrangements perpetuated by the Respondent are restrictive of intra-brand competition amongst the Respondent's dealers or distributors/retailer as the same impairs their ability to compete on prices in the sale and distribution of Respondent's products. Such arrangements also included monitoring of the resale price so fixed by the Respondent and penalizing the dealers or distributors/retailers on allowing discounts to the end-consumers. It is found from the aforesaid Circular that the Respondent had engaged certain mystery shopping agents for policing its dealers or distributors/retailers in order to monitor the resale price arrangements. Apparently, these mystery shopping agents would submit their reports to the Respondent, highlighting various violations committed by the dealers or distributors/retailers in dealing with customers, specifically highlight the discount granted by them to the end-consumers. It is also found that where a dealer or distributor/retailer is found to be deviating from the Respondent's pricing mechanism, the Respondent imposes a penalty on them by canceling their margin at first. Further, such penalties could include even stoppage of supply or cancellation of their dealership. Therefore, the Commission is of the considered view that the Respondent has contravened Section 4(2)(a) read with Section 4(1) of the Act.

COMMITMENTS AND REMEDIES

36. The Commission is empowered to impose a fine under Section 38 of the Act, in case there is a violation of Section 4 of the Act, and to issue a cease and desist order under Section 31. Furthermore, in pursuance of Regulation 30 of the General Enforcement Regulations 2007, the Commission may at any time after initiating proceedings under Section 30 of the Act, accept commitments from the concerned undertakings that remedy the violations made out under Chapter II of the Act, provided that the commitments are sufficient to clearly address the adverse effects to competition which have been identified.



37. In pursuance thereof, the Commission analysed the commitments submitted by the Respondent in the instant matter. The Respondent's original commitment dated 22 December 2016 was insufficient in addressing the competition concerns identified as the Commission found it to be unsatisfactory in terms of the process proposed by the Respondent to rectify its conduct. Thereafter, the Respondent submitted an amended commitment dated 19 February 2018 which was accepted by the Commission as being adequate in addressing the competition concerns and remedying their anti-competitive effects. The relevant portions of the commitment dated 19 February 2018 are as follows:

"1. That M/S RELIANCE PAINTS PAKISTAN fixed the resale price for its products and penalizes dealers who do not abide by this restriction which prima facie violates the Section 4 of the Act.

2. That the company would withdraw the notice that fixes the minimum resale price and threatens sanctions/penalties on non-compliance.

3. That subsequently the company would issue a remedial notice, wherein it is clearly stated that any prices suggested by the company are only recommendatory in nature and that there will be no retribution in case any of the company's dealers choose(s) to opt for another price(s).

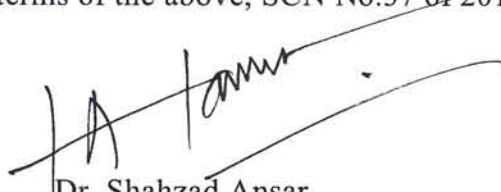
4. That, we shall comply with any/or all directions of the Commission in the subject proceedings, which inter alia include the directions passed by the Commission under Section 38 of the Act read with Regulation 37 of the Competition Commission (General Enforcement) Regulations, 2007, and shall ensure compliance with the provisions of Section 10 of the Competition Act, 2010 letter and spirit, in future."


38. On the basis of the acceptance by the Commission of the amended commitment dated 19 February 2018 as reproduced above, the Respondent's counsel took the plea at the hearing held on 21 February 2018 that a lenient view be adopted by the Commission in the imposition of the fine upon the Respondent.

39. While, imposing the fine, the Commission has taken into view the nature of violation which in the instant matter is price fixing, which above all violations of Competition Law is treated the most precarious and is not taken lightly by any competition agency across the globe. Further, the violation continued for almost three (3) years

and was discontinued only after the issuance of the show cause notice and during the hearings before the Commission. The Respondent during the course of enquiry never came forward to rectify its behavior, rather the Respondent has capitalized on the anti-competitive practice throughout almost three years. Hence, we are constrained, in terms of Regulation 37 of the General Enforcement Regulations 2007 read with Section 38 of the Act, to impose upon the Respondent a penalty in the sum of PKR 5 Million (Rupees Five Million Only), which the Respondent is liable to deposit with the Commission within sixty (60) days from the date of this Order.

40. Furthermore, the Respondent is directed to immediately cease its contravention of Section 4 of the Act as has been determined hereinabove. In this regard, the Respondent is further directed to file a compliance reports with the Registrar of the Commission within a period of sixty (60) days from the date of issuance of this Order confirming that it has cancelled and recalled the impugned Circular dated 1 May 2015. In the event that the Respondent proceeds to issue a remedial notice with recommendatory prices for its dealers, it shall intimate the Commission of the same immediately for the purposes of determining whether an exemption from the application of Section 4 is required to be sought in terms of Section 5 and 9 of the Act.
41. The Respondent is further warned that in case of future or continued violation of any provision of the Act is made out against the Respondent, in particular Section 4, the Commission shall be constrained to take strict action under the provisions of the Act.
42. In terms of the above, SCN No.37 of 2016 is hereby disposed of.


Dr. Shahzad Ansar
Member


Dr. Muhammad Saleem
Member



Islamabad, 30th March 2018.