



COMPETITION COMMISSION OF PAKISTAN

ENQUIRY REPORT

(Under the provisions of Section 37(1) of the Competition Act, 2010)

**IN THE MATTER OF ENQUIRY AGAINST M/S KINGDOM VALLEY
(PVT.) LIMITED FOR DECEPTIVE MARKETING PRACTICES**

 BY 
Riaz Hussain & Urooj Azeem Awan

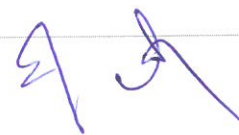
Dated: May 30, 2023

1. BACKGROUND:

- 1.1 The Competition Commission of Pakistan (the '**Commission**') took notice of the concerns raised against M/s Kingdom Valley (Private) Limited (hereinafter referred to as the '**Undertaking**'), for, *prima facie*, violation of Section 10 of the Competition Act, 2010 (the '**Act**') i.e., Deceptive Marketing Practices.
- 1.2 It was observed that the Undertaking launched a housing scheme namely 'Kingdom Valley Islamabad'. The Undertaking is observed to have been extensively marketing its housing scheme as located in 'Islamabad' in their promotional material.
- 1.3 Furthermore, it was also observed that the Undertaking was marketing an affiliation with Naya Pakistan Housing Program (**NPHP**) and Naya Pakistan Housing and Development Authority (**NAPHDA**). Moreover, it also claimed to have been 'NOC Approved'. The same, if false, has the potential of misleading the consumer into making wrong buying decisions and harming the business interest of other undertakings in the market, thereby violating the Act.
- 1.4 Keeping in view the above, the Competent Authority, after a preliminary investigation, initiated an Enquiry in accordance with sub-Section (1) of Section 37 of the Act by appointing Mr. Riaz Hussain, Deputy Director (OFT) and Ms. Urooj Azeem Awan, Deputy Director (OFT), as the enquiry officers (hereinafter referred to as '**Enquiry Committee**'). The Enquiry Committee was directed to conduct an enquiry, and to submit the report, by giving findings and recommendations *inter alia* on the following:
 - i. *Whether the conduct of the Undertaking is capable of harming the business interest of other undertakings, prima facie, in violation of Section 10 (2) (a) of the Act?*
 - ii. *Whether the Undertaking is disseminating false or misleading information to consumers, including the distribution of information lacking a reasonable basis, related to the place of production, properties, suitability for use, and quality of goods, prima facie, in violation of Section 10 (2) (b) of the Act?*
 - iii. *Whether the conduct of the Undertaking is in violation of Section 10 (1) of the Act in general?*
 - iv. *Whether there is a spillover effect of the conduct of the Undertaking?*

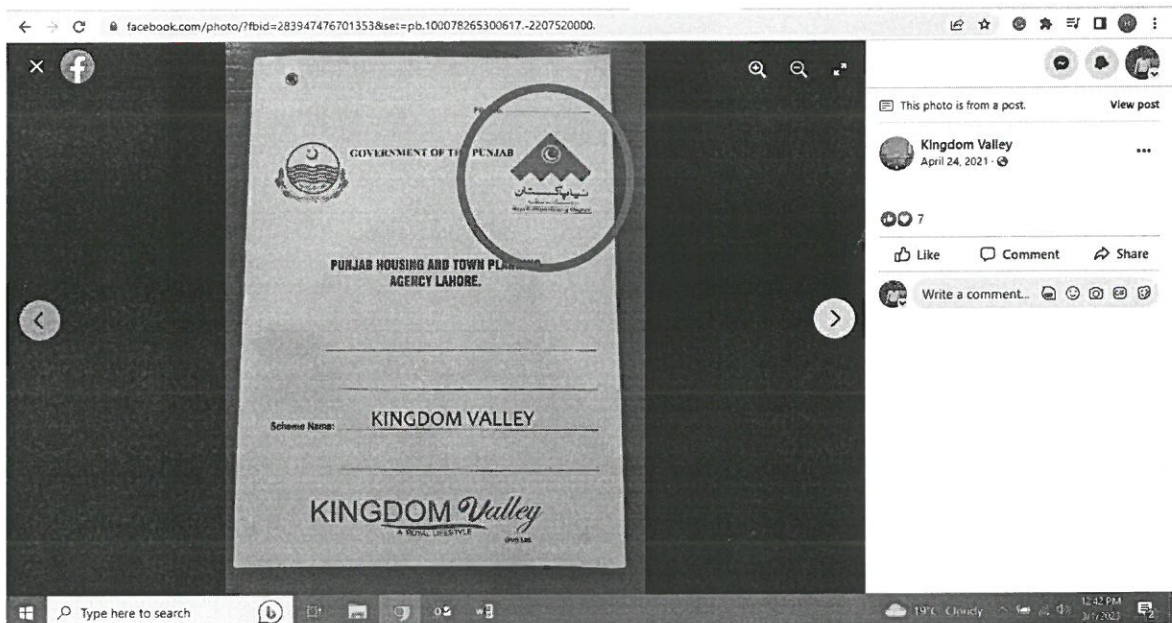
2. CLAIMS MADE BY THE UNDERTAKING:

- 2.1 The Undertaking launched a housing scheme namely "Kingdom Valley Islamabad" (the **Project**) in 2020. In their advertisement, through billboards, website, Facebook Pages and TVCs including Geo News and Lahore Rang, wherein it has been claimed that:



- i. The Project is associated with 'Naya Pakistan Housing Program' (NPHP) and 'Naya Pakistan Housing Development Authority' (NAPHDA);
- ii. The NOC has been approved by Punjab Housing and Town Planning Agency (PHATA); and
- iii. The Project is located in the territorial limits of Capital Territory, Islamabad.

2.2 The images of the Undertaking's advertisement are depicted below:


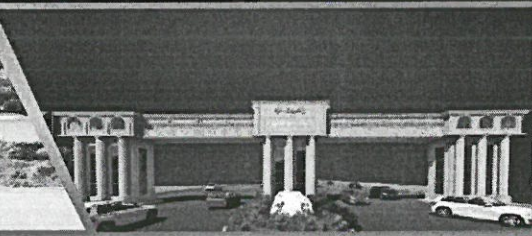


(Handwritten signature)



Kingdom Valley

A Royal Lifestyle





4 year Payment Plan (Farmhouse)



Plot Size	Total Price	Down Payment	Confirmation	8 semi-Annual	40- Monthly Installments
2 Kanal	8,000,000	800,000	800,000	515,000	57,000
4 Kanal	14,000,000	1,400,000	1,400,000	910,000	98,000

Features:

- 2 km from Chakri Interchange M2 Motorway
- 15 min drive from New Islamabad International airport.
- NOC approved society • Development in Progress



A Project by
KINGDOM GROUP

Corporate Office
172 Y-Block, Commercial Area, Phase III, DHA Lahore.
UAN : 042 111 555 187 , www.kingdomvalleypvtltd.com

3. CORRESPONDENCE WITH THE UNDERTAKING:

3.1 A letter was written to the Undertaking on September 26, 2022, wherein they were asked to provide the following information/comments along with the documents in support of the aforementioned claims:

- i. Substantiation regarding the Project being situated in Islamabad Capital Jurisdiction (ICT).
- ii. Association of Kingdom Valley with NPHP and NAPHDA; and
- iii. Details of NOC(s) along with evidence;

3.2 Upon receiving no reply, reminder letters dated October 10 & 24, 2022, November 28, 2022, and January 06, 2023, were written to the Undertaking. Finally, the Undertaking submitted its reply on January 13, 2023, which has been summarized below:

- That M/s Kingdom Valley (Private) Limited was incorporated under the incorporation number 0150703, dated 04-05-2020 by the Securities and Exchange Commission of Pakistan (SECP), under the Companies Act, 2017.
- That the Kingdom Valley is a project of M/s Kingdom Valley (Private) Limited.
- That the Project is also registered with Federal Board of Revenue (FBR) under the National Tax Number (NTN) 8169735-3, dated 07-05-2020.
- That the Undertaking has applied for registration of trademark "Kingdom Valley" under application No. 565159, dated 10-03-2020 with the Trade Mark Registry, Intellectual Property Organization (IPO), Government of Pakistan.
- That the Copyright of "Kingdom Valley" has also been applied under the Copyright receipt number 2302156605, dated 23-01-2023 with the IPO.
- That the Project, i.e., Kingdom Valley, Rawalpindi, is situated in Mouza Choor, Tehsil and District Rawalpindi and duly approved private housing scheme under the letter number DG-PHATA/w-I/PHS/11/2021/207-12, dated 12-10-2021, under Naya Pakistan Housing Program (NPHP) issued on Endst No. AP-I (1377)-2021/128, duly published in the Punjab Gazette on 26-04-2021.
- That the said Project has been approved under Punjab Housing and Town Planning Agency (PHATA), Affordable Private Housing Schemes Rules, 2020, notified in the Punjab Gazette vide no. SO (H-II) 2-1/2019, dated 20-10-2020. That the Phase-1 of the Project was sanctioned/approved under Memo No. DG-PHATA/W-1/PHS/11/2021/782-86, dated 05-05-2022. This sanction was subject to certain conditions imposed by the authority.

4. CORRESPONDENCE WITH REGULATORY AUTHORITIES/DEPARTMENTS:

- 4.1 Prior to initiation of enquiry, a letter dated January 06, 2022, was written to the NAPHDA, wherein they were asked to clarify whether the Project has been associated and/or approved by the NAPHDA.
- 4.2 The NAPHDA, vide letter dated January 18, 2022, submitted that the Project in question was approved by PHATA and has no connection with NAPHDA.
- 4.3 Upon clarification of NAPHDA, a letter dated January 18, 2022 was written to PHATA wherein they were asked to clarify whether the Project has been granted No Objection Certificate (NOC) by PHATA or merely possesses 'Planning Permission' to carry out further town planning.
- 4.4 PHATA, vide Memo No. DG-PHATA/W-I/PHS/11/2021/520-21, dated February 07, 2022, submitted that the Layout Plan (LOP) of the Project, comprising on 103-Kanals, 15-Marlas and 38 Sqft. in Mouza Choor, Chakri Road, Rawalpindi, was approved/cleared by the Technical Committee PHATA Region, Rawalpindi on 06-01-2021 and the detailed LOP of the Project was approved by the Governing Body of PHATA on 29-03-2021.
- 4.5 PHATA further clarified that in addition to the above, the Undertaking has also submitted an application for approval of Phase-II of the Project, comprising 1400-Kanals, which is under process.
- 4.6 Upon clarification provided by PHATA, another letter dated February 16, 2022 was written to NAPHDA for further information/clarification. The copy of PHATA's letter dated February 07, 2022 was also shared with the NAPHDA and asked them to authenticate whether:
 - i. The referred Project has an association with Naya Pakistan Housing Program;
 - ii. Whether the approval from PHATA under NPHP is sufficient for execution or does the Project also require an approval from NAPHDA to be a part of NPHP.

In addition to the above, it was also requested to provide details on role of NAPHDA under NPHP.

- 4.7 In their reply dated February 28, 2022, the NAPHDA submitted that the referred Project has been approved by PHATA under PHATA respective rules and regulations. However, as far as NAPHDA is concerned, the Project has neither been approved nor associated with NAPHDA.
- 4.8 Moreover, the NAPHDA has not granted any approval to any development authority for execution of project under NPHP. The respective development authorities with their rules and regulations approve projects. However, NAPHDA works in collaboration with Government authorities for provision of low cost projects.

- 4.9 Another letter, dated 10th of February, 2022, was written to PHATA to further clarify if the Planning Permission granted was sufficient to start execution of the project and to further share details regarding the number of plots specified under the NPHP program. However, no response was received to date.

5. ISSUES & ANALYSIS:

- 5.1 As mentioned in Para 1.3 above, the Enquiry Committee was mandated to determine the factual position and submit its report giving their findings and recommendations inter alia on the following issues

- i. *Whether the conduct of the Undertaking is capable of harming the business interest of other undertakings, prima facie, in violation of Section 10 (2) (a) of the Act?*
- ii. *Whether the Undertaking is disseminating false or misleading information to consumers, including the distribution of information lacking a reasonable basis, related to the place of production, properties, suitability for use, and quality of goods, prima facie, in violation of Section 10 (2) (b) of the Act?*
- iii. *Whether the conduct of the Undertaking is in violation of Section 10 (1) of the Act in general;*
- iv. *Whether there is a spillover effect of the conduct of the Undertaking?*

- 5.2 As mentioned in Para 3.1 *ibid*, the Undertaking was asked to substantiate the following claims made in the advertisement:

- I. Substantiation regarding the housing project 'Kingdom Valley' being situated in Islamabad Capital Jurisdiction (ICT)
- II. Association of Kingdom Valley with NPHP and NAPHDA
- III. Details of NOC(s) along with evidence

- 5.3 In order to determine instance of deception in any marketing campaign, the main focus of is to evaluate its "net general impression", which has been conveyed to the consumers through marketing activity of an undertaking.

- 5.4 Moreover, it is necessary to establish the difference between false and misleading information. The Commission, in its order held against **M/s CMPak Limited**¹, has defined "**False**" and "**Misleading**" information as deceptive marketing practices in the following manners:

False Information:

'False information' can be said to include: oral or written statements or representations that are; (a) contrary to truth or fact and not in accordance with

¹ <http://cc.gov.pk/images/Downloads/ZONG%20-%20Order%20-%202029-09-09%20.pdf>

the reality or actuality; (b) usually implies either conscious wrong or culpable negligence; (c) has a stricter and stronger connotation, and (d) is not readily open to interpretation.

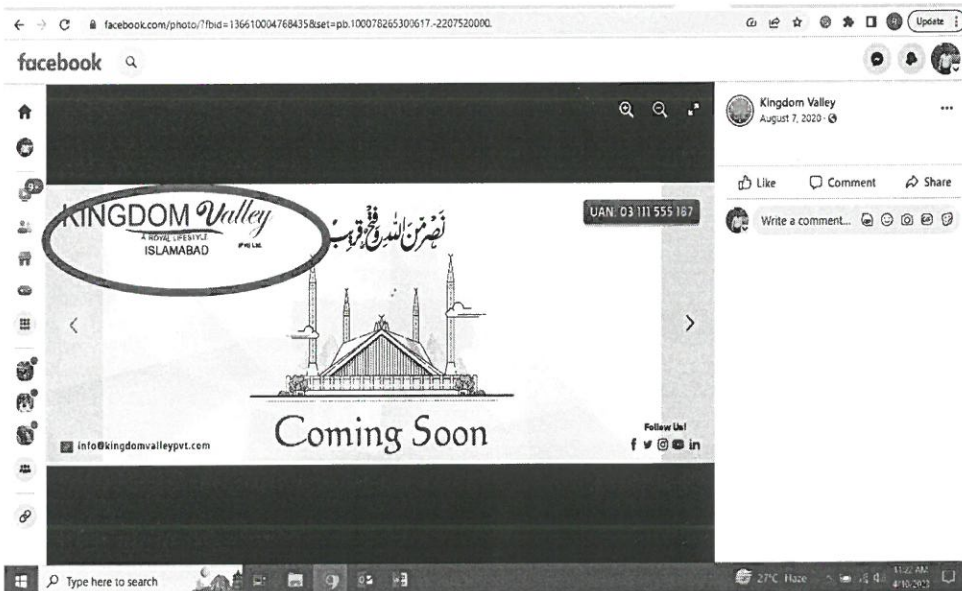
Misleading Information:

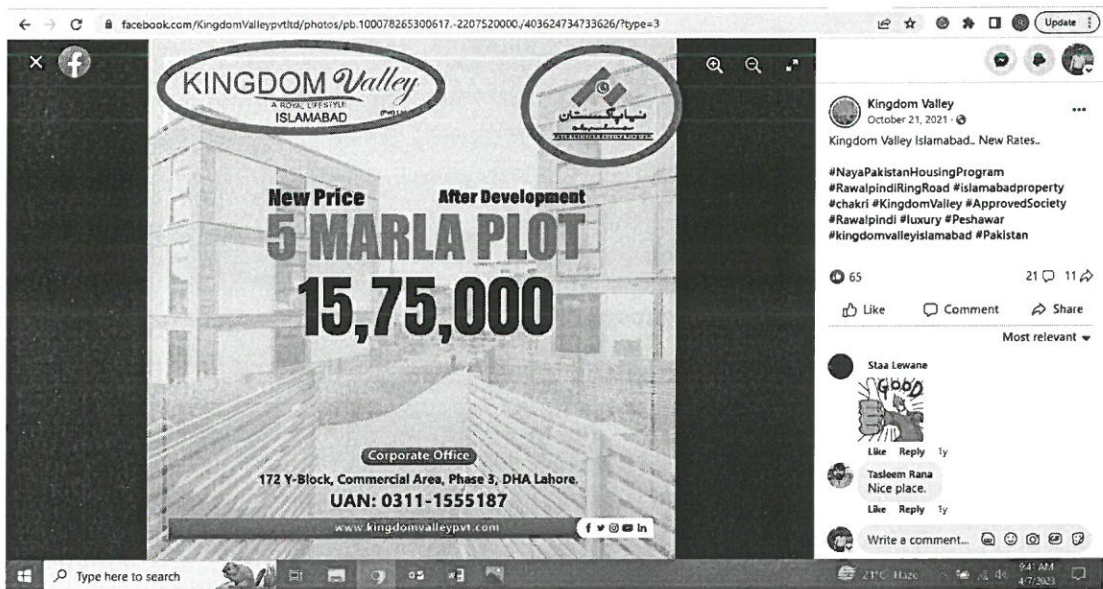
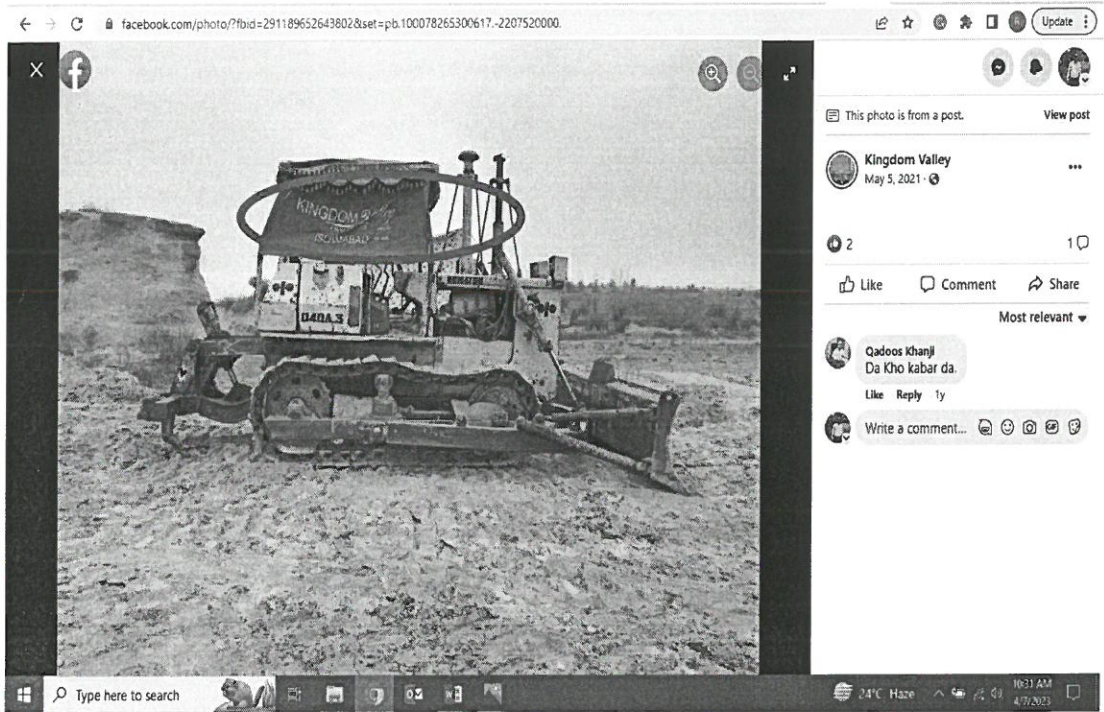
“Whereas ‘misleading information’ may essentially include oral or written statements or representations that are; (a) capable of giving wrong impression or idea, (b) likely to lead into error of conduct, thought, or judgment, (c) tends to misinform or misguide owing to vagueness or any omission, (d) may or may not be deliberate or conscious and (e) in contrast to false information, it has less onerous connotation and is somewhat open to interpretation as the circumstances and conduct of a party may be treated as relevant to a certain extent.”

- 5.5 The social media advertisement, TVC’s and the billboards/hoardings regarding Undertaking’s project contain very prominent and absolute claims i.e. “Kingdom Valley, Islamabad”, association with “Naya Pakistan Housing Program” & “NAPHDA” and “NOC Approved Society”. The images displaying the specified marketing claims/representations have already been reproduced in the preceding paragraphs for reference.
- 5.6 In pursuit of the above, this report will examine the marketing campaign of the Undertaking carried out across all media, including but not limited to, print, electronic and social media.

I. ‘Kingdom Valley’ being situated in Islamabad Capital Jurisdiction (ICT)

- 5.7 Some of the relevant images of the campaign carried out by the Undertaking are reproduced here below for reference before summarizing facts:



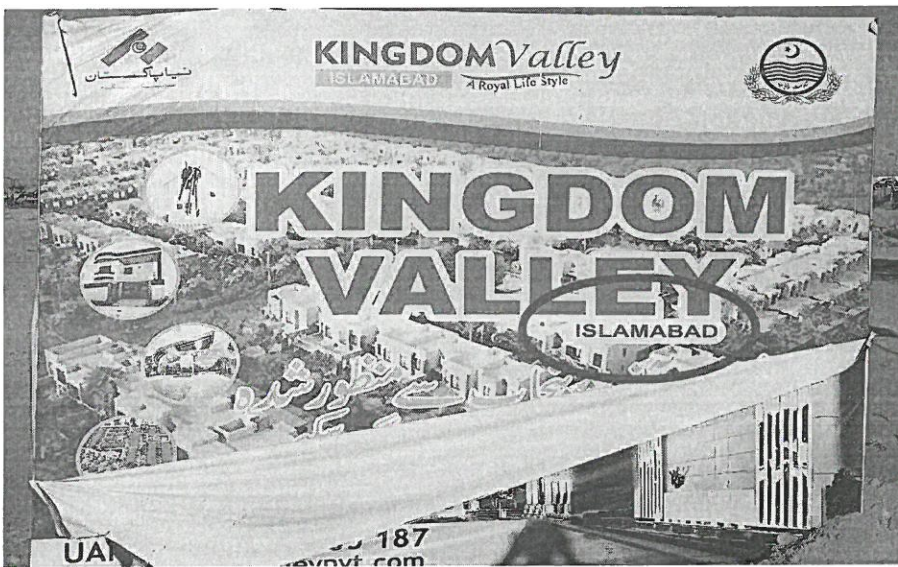




5.8 The images above display the initiation of the campaign by the Undertaking through its official Facebook Page². These social media posts of August 07, 2020, May 05, 2021, July 28, 2021, October 2, 2021 and October 21, 2021, display the association of the Kingdom Valley with “Naya Pakistan Housing Program” at the top right corner of each post. Moreover, the location of Kingdom Valley is advertised as situated in Islamabad.

² <https://www.facebook.com/KingdomValleyPvtLtd/photos/pb.100078265300617.-2207520000./347016067061160/?type=3>

5.9 The Enquiry Committee, on November 23, 2022, also visited the site office of the Undertaking, situated at Mouza Choorā near Chakri Interchange, and observed that the same marketing claims of being situated in Islamabad have been displayed on various billboards placed along the way to the site of the project. Images of the billboards are depicted below:

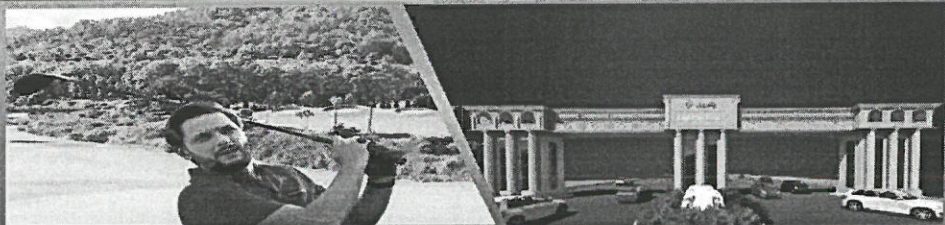




5.10 The Enquiry Committee also visited the corporate office of the Undertaking on 4th of January, 2023, located at 172-Y-Block, Commercial Area, Phase-III, DHA Lahore, and collected the relevant marketing material. A billboard placed over the entrance of the office also reads 'Kingdom Valley, Islamabad'. An image of the billboard and marketing material (flyer sourced from the Corporate Office) has been reproduced hereunder for reference:



KingdomValley
A Royal Lifestyle




4 year Payment Plan (Farmhouse)

Plot Size	Total Price	Down Payment	Confirmation	8 semi-Annual	40- Monthly Installments
2 Kanal	8,000,000	800,000	800,000	515,000	57,000
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5.11 It can be seen from the above images that the Undertaking, while advertising, has used the name of Islamabad to attract the consumers. It has also been observed that the Undertaking has used names and logos of different government departments on the website along with an approval number, which gives an impression that they have some affiliation with the specified government departments.

5.12 As the Undertaking was using the name of Islamabad in their promotional material, it was therefore important to verify the exact location of the project. The CDA Ordinance 1960, ICT (Zoning) Regulations, 1992 and the Revised Modalities and Procedures³ framed thereunder for private housing schemes empowers CDA to regulate planning and development of private housing schemes. After going through the bylaws of CDA it is evident that a housing scheme situated in any zone of ICT can use the name of Islamabad after getting an approval from CDA. For approval of private housing schemes within the jurisdiction of Islamabad Capital Territory, two tier approvals are required from CDA, which are given as follows:

- i. Technical approval of **Layout Plan (LOP)** of the scheme.

³ <https://www.cda.gov.pk/documents/docs/revisedZone234Regulations1992.pdf>

A J

- ii. Upon completion of subsequent formalities, the **No Objection Certificates (NOC)** for development of the scheme is issued. The sponsors can start development work and sale of plots after obtaining NOC from CDA.
- 5.13 A list of housing schemes duly approved by CDA was analyzed for this purpose and it has been observed that the name of Kingdom Valley was not available in the list of housing projects approved by CDA⁴. Hence, the claim of the project being situated in Islamabad is a false statement.
- 5.14 The Undertaking, in its reply dated January 13, 2023, has submitted that their project is situated in District Rawalpindi and that they have obtained approvals from PHATA, with affiliation under NPHP. It has also been submitted that the Phase-1 of the project, comprising an area of 103 Kanal, 15 Marla & 38 sqft. has been declared and notified as “Controlled Area” for the purpose of establishment of housing scheme “Kingdom Valley”, Rawalpindi, under NPHP.
- 5.15 Location of a housing scheme is material information that has an impact on a consumer’s decision making process, and requires honest disclosure prior to demanding commitment from the consumer.
- 5.16 As discussed earlier, the project has been extensively advertised as Kingdom Valley, Islamabad despite its approval from PHATA. Moreover, the fact was well known by the Undertaking that the Project is situated in the Distt. Rawalpindi jurisdiction. Therefore, advertising it as being situated in Islamabad amounts to dissemination of false information.

II. Association of Kingdom Valley with NPHP and NAPHDA

- 5.17 Another claim made, extensively, by the Undertaking in all of their advertisement is that its project is associated/approved by Naya Pakistan Housing Program (NPHP) or Naya Pakistan Housing and Development Authority (NAPHDA). NPHP is the flagship program of the Government of Pakistan to provide housing facility to the homeless population, to accelerate economic activity in the country and to provide job opportunities to the youth.
- 5.18 The Government formed a housing taskforce with 4 chapters in all provincial capitals, working separately and in unison with the central task force located in Islamabad. For the purpose of this program, the Government of Pakistan established a separate development authority at federal level, namely Naya Pakistan Housing & Development Authority. NAPHDA⁵ is a corporation established on 15 January 2020, through an Act of Parliament for the purpose of planning, development, construction and management of real estate development schemes and projects including housing. NAPHDA being the developing arm of the Government is pursuing multiple objectives in the realm of housing and infrastructure development on both profit and non-profit basis throughout the Country.

⁴ <https://www.cda.gov.pk/housing/HousingSchemes>

⁵ <https://naphda.gov.pk/about-us.aspx>



- 5.19 In this regard, NAPHDA issued a notification No. SO (I&C)5-18/2020, dated 9th of June 2020, to all concerned development and town planning authorities of Punjab wherein various timelines for approval of the building plan, completion certificate, land use conversion and private housing society were given. Copy of the notification dated June 09, 2020, is attached as Annex-A. However, no verified marketing content on association of the Undertaking with NAPHDA could be found.
- 5.20 PHATA, formed under the PHATA Ordinance, 2002, launched the NPHP with the aim to provide better livelihood and shelter to the low/middle income households. In this regard, construction of houses was initiated in various districts of Punjab.
- 5.21 The relevant prime functions of PHATA are given as under:
- implement parameters of the national housing policy, coordinate and liaise with the Federal Government, District Governments, Tehsil Municipal Administrations, concerned departments and agencies;
 - identify state and other lands for developing low income and low cost housing schemes;
 - provide affordable, cost efficient housing schemes especially for the low income group and families out of the Revolving Fund;
 - prepare guidelines, long-term and short-term plans for implementing the low cost housing schemes and programmes in the Punjab;
 - coordinate with Federal, District Governments and Tehsil Municipal Administrations for implementing the development plans and programmes pertaining to Housing and Town Planning;
- 5.22 To perform its functions and to cater to the private sector under NPHP, PHATA made rules, known as the PHATA APHS Rules, 2020. Under the Clause 3 of Chapter II of PHATA APHS Rules, 2020, private sponsors are allowed to participate in Naya Pakistan Housing Program and develop a housing scheme. The sponsor having minimum area of one hundred kanals, may submit an application to the Director General of the Agency for participation in Naya Pakistan Housing Program. The Undertaking, in the current matter, also submitted an application to PHATA for approval of its project under NPHP.
- 5.23 The Lay Out approval procedure is given in clause 6, 7, 8, 9 & 10 of Chapter III of PHATA APHS Rules, 2020. Sub-clause 2 of Clause 10 of PHATA APHS Rules states that:
- On fulfilment of requirements laid under clause 6, 7, 8, 9 and 10(1) of PHATA APHS Rules;*
- (a). *The Director of the concerned region shall, submit the case to the Director General;*
 - (b). *The Director General will forward the case to the governing body of Punjab Housing & Town Planning Agency for its approval;*
 - (c). *After the approval from the Governing Body, the Director General will notify the scheme area as controlled area as required under the ordinance;*
 - (d). *Afterwards the Director General shall approve the layout plan or pass appropriate orders; and*

(e). *The Director of the concerned region shall, within three days of the receipt of order of Director General, intimate the sponsor(s) the order of the Director General.*

5.24 It has been observed that the Layout Plan of the project was approved by the Governing Body of PHATA in its 75th meeting held on 29.04.2021 and the said area was declared as “Controlled Area” under Section 15 of the PHATA Ordinance, 2002. However, the sanction letter was issued on 05 July, 2022 (**Annex-B**), subject to certain conditions. It was mentioned in the sanction letter that the marketing/publicity material shall include the following:

- i. NOC from PHATA;
- ii. Total area and location;
- iii. Total number of residential and commercial plots of various sizes;
- iv. Detail of mortgaged plots;
- v. Details of plots reserved for PM NPHP;
- vi. Period for completion of development works;
- vii. Method of allocation of plot numbers; and
- viii. Other details.

5.25 Sub-Clause 3 of Clause 10 of PHATA APHS Rules states that:

Subject to compliance of Rule 32, the sponsor may start marketing and sale of plots after the technical sanction of scheme but the sponsor shall not be absolved of the responsibility to comply with the marketing requirements under any other law and shall not market or sell any mortgaged plot unless it is redeemed by the agency and the plots are released by executing a redemption deed.

5.26 As mentioned above, the project was sanctioned on 5th of July 2022 whereas the Undertaking started advertising the project in the year 2020. It was claimed in the advertisement that the project is associated with NPHP which was, at the time, a false statement.

5.27 It is observed that only Phase-1 of the project has been approved/sanctioned by PHATA under NPHP and declared as “Controlled Area”. It is pertinent to mention here that the applications for approval of Kingdom Valley, Phase II & III, under NPHP, are still under consideration with PHATA. .

5.28 However, contrary to the approval of only Phase I of the Project, the whole project (Phase-I, II & III) is being advertised with the impression that all three phases of the project are approved and associated with NPHP. However, only Phase-I of the project is sanctioned/approved from PHATA under NPHP, totaling up to 103 Kanals of the approximately 3000 kanals advertised.

5.29 During the Project site visit, the Enquiry Committee noted that very limited information regarding the association of the Project with NPHP was being provided to the consumers. Upon enquiry, the site office personnel would only respond that they had no information on

the number of plots under NPHP, area where they are located, cost of such plots, their availability and the procedure to buy.

- 5.30 It is pertinent to mention here that two separate applications for approval of Phase-II & III of the Project under NPHP were submitted with the PHATA on December 01, 2021 and April, 2022, respectively. However, to date both applications are still pending for approval.
- 5.31 Therefore, it can be concluded that in the absence of any approval of Phase II & III under NPHP from PHATA, the Undertaking's general claim of being associated with NPHP, without disclosing the facts of the association, amounts to dissemination of false and misleading information to consumers.

III. Details of No Objection Certificate (NOC)

- 5.32 The Undertaking has also claimed that Kingdom Valley is an NOC approved society. The relevant marketing material, containing the said claim, is depicted below:

The screenshot shows a website for Kingdom Valley (Farmhouse) with the following content:

(Farmhouse)

Plot Size	Total Price	Down Payment	Confirmation	8 semi-Annual	40- Monthly Installments
2 Kanal	8,000,000	800,000	800,000	515,000	57,000
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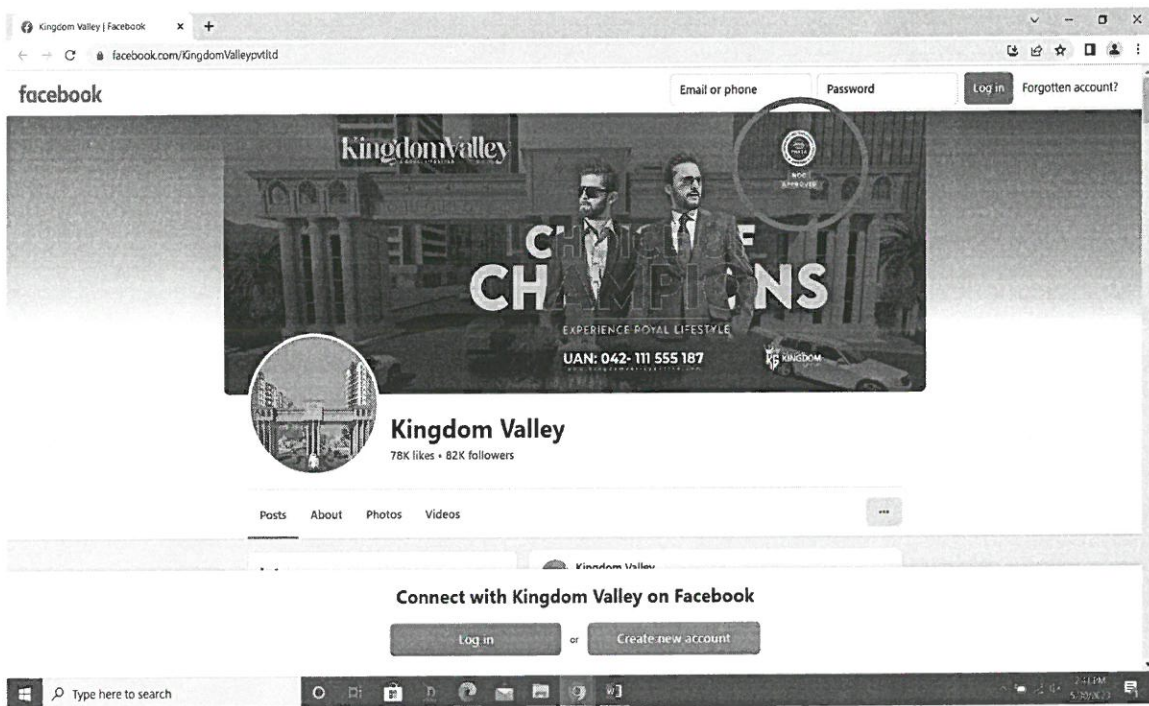
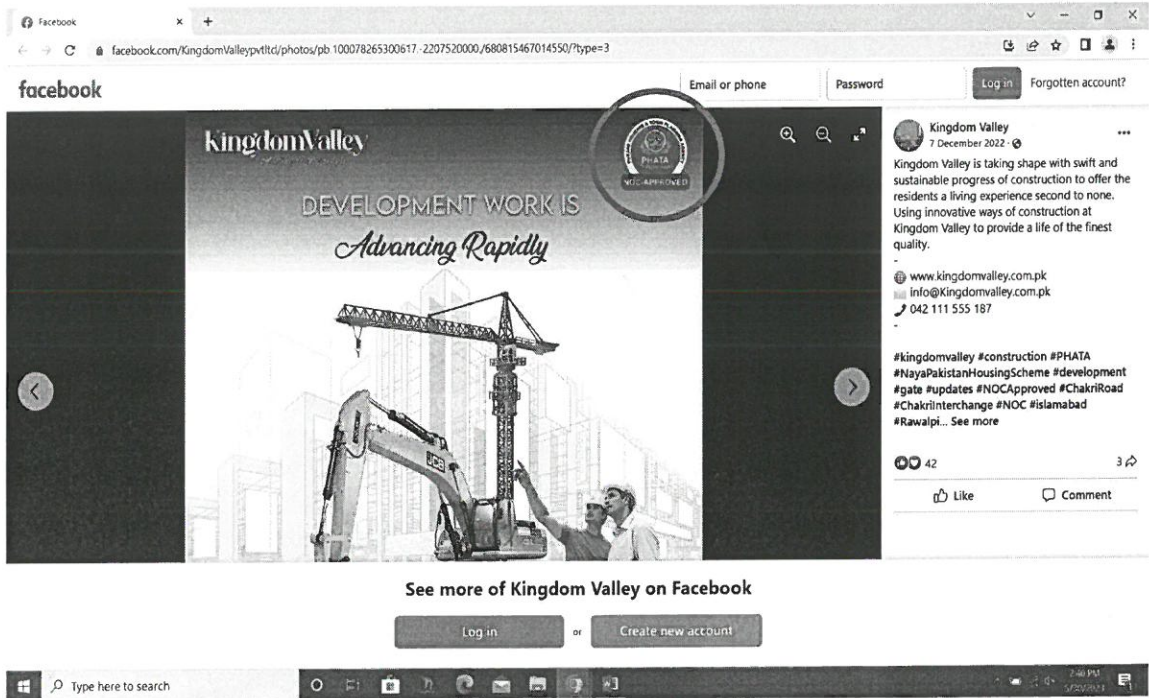
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KG KINGDOM GROUP A Project by

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The screenshot also shows a browser address bar with the URL kingdomvalleypvtltd.com/our-products/ and a Windows taskbar at the bottom with the date 4-10-2021 and time 11:29 AM.



5.33 Any undertaking intending to initiate planning and development of housing scheme must seek permission from the relevant jurisdictional planning and development authority. The Undertaking admitted that their project is situated in Tehsil and District Rawalpindi and

approved by PHATA, which is a provincial agency for housing and town planning in the Punjab region.

- 5.34 The PHATA, in its sanction letter dated 05th of July 2022, has also mentioned that the details of PHATA NOC shall be mentioned in the advertisement and publicity material of the Undertaking. From the above images, it can be seen that the Undertaking has mentioned in their marketing and publicity material that they have NOC approval from relevant authority.
- 5.35 However, the Undertaking has failed to disclose, at all point of contacts between the Undertaking and the consumer, that the displayed NOC only applies to the Phase I of the project, which is limited to a total area of a little over 103 Kanals. The Undertaking has, failed to disclose in all of its marketing communication that the claim does not apply to Phase II and III of its project, which is a major chunk of the Undertaking's project, spanning over approximately 2,900 Kanals.
- 5.36 In this regard, it is pertinent to mention that the Undertaking started marketing its project in mid-2020, as referred to in Para No. 5.8 above. However, the Undertaking received its sanction for Phase I of the project on 5th of July, 2022. Any dissemination of marketing information prior to the sanction was false and misleading.
- 5.37 In light of the above, the dissemination of such information regarding NOC may amount to dissemination of false and misleading information to consumers.

i. Whether the conduct of the Undertaking is capable of harming the business interest of other undertakings, prima facie, in violation of Section 10 (2) (a) of the Act?

- 5.38 After analyzing the marketing material (print, electronic and physical verification), it has been observed that the advertisement of the project was started prior to the approval of regulatory authorities and various false and/or misleading claims were made in the advertisement. It was advertised widely that the project is situated in Islamabad, which is a false statement.
- 5.39 Similarly, it was advertised that the project is associated with NPHP, whereas at the time of marketing, the representation was false since no approvals had been obtained by the Undertaking. Infact, to date, only Phase-I of the project has been approved under the NPHP by PHATA. It has been observed that people have more trust to invest in such projects, which have been initiated either by the Government itself or by other private sponsors associated with government programs. Therefore, the claim to be associated with NPHP in generality is false as well as misleading.
- 5.40 Moreover, to claim that the housing project is NOC approved before obtaining due NOC is dissemination of false information. Moreover, to claim the project is NOC approved in generality, whereas, NOC has been granted in favor of a fraction of the project only, is dissemination of both false and misleading information.
- 5.41 In order to determine whether the, *prima facie*, deceptive conduct of the Undertaking was capable of harming business interests of other competing undertakings in violation of Section



10(2) (a) of the Act, it is important to note that housing and real estate serve as a lucrative opportunity for investment for the general public

- 5.42 The term '*business interest*' has not been defined either in the Act or discussed exhaustively in the Commission's previous orders. However, *in the matter of Show Cause Notice issued to M/s Jotun Paints for Deceptive Marketing Practices*⁶ the Commission included image, goodwill, and sales as concepts of business interest. *In the Matter of Show Cause Notice issued to M/s Tara Crop Sciences (Private) Limited*⁷ the Commission added protection of brands in concept of business interest. Section 10(2) (a) of the Act explicitly seeks to protect the business interest of all undertakings/competing entities from being harmed by deceptive marketing practices of another undertaking. By disseminating false and misleading information, any business undertaking, whether dominant or not, can adversely affect the sales, goodwill, image, and brands of another undertaking either by unduly influencing consumers away from its competitors or attracting them towards itself.
- 5.43 The Commission has consistently held over several years of decision making that false and misleading information disseminated by an undertaking to consumers is likely to harm the business interest of the competitors of the Undertaking. Even a one-time decision of consumer due to the provision of false and/or misleading information infringes on interests of competitors in the market.
- 5.44 Therefore, such kind of projects, if advertised deceptively, may adversely affect the rest of the market players. The effect is more noticeable in markets such as real estate where there are high switching costs due to price, governmental taxes and other regulations. Turnover times for real estate products are especially long for end consumers who generally lock-in considerable financial resources to buy the estate. Therefore, both consumers as well as competitors, stand to be greatly harmed in case decisions are initiated by or based on false and/or misleading information.
- 5.45 Therefore, in search of such residential property, if advertised deceptively, the investors/buyers may purchase property in areas or schemes where they otherwise would not have done so.
- 5.46 Hence, it can be concluded that the Undertaking has been found to be engaged in distribution of false and misleading information, through the use of phrase 'Kingdom Valley, Islamabad', claims of association with Naya Pakistan Housing Program and 'NOC Approved', which is capable of harming business interests of other undertakings, *prima facie*, in violation of Section 10 (2) (a) of the Act.
- ii. *Whether the Undertaking is disseminating false or misleading information to consumers, including the distribution of information lacking a reasonable basis, related to the place of*

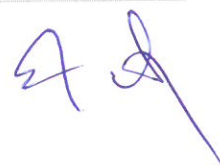
⁶ Available at http://cc.gov.pk/images/Downloads/jotun_pakistan.pdf

⁷ Available at http://cc.gov.pk/images/Downloads/show_cause%20notice_issued_to_ms_tara_crop_order.pdf

production, properties, suitability for use, and quality of goods, prima facie, in violation of Section 10 (2) (b) of the Act?

- 5.47 When marketing material is viewed as a whole, the impression projected to an ordinary consumer is that the housing project is situated in Islamabad Capital Territory, is cheaper in price compared to other housing projects in the ICT jurisdiction due to its association with Naya Pakistan Housing Program, and that the project is fully compliant with the rules and regulations of the land.
- 5.48 On the basis of the marketing material used for the campaign of Kingdom Valley by the Undertaking, *prima facie*, the overall net general impression of the marketing campaign/ advertisement from the perspective of an 'ordinary consumer' is that the Kingdom Valley is a best deal for investment in Islamabad.
- 5.49 Such marketing tactics have a tendency to cause a sense of urgency among the consumers as they may not want to lose the opportunity prior to closing of registration/booking.
- 5.50 It should be noted that the general market practice pertaining to such housing schemes includes detailed disclosure of the various categories of plots/bungalows/apartments offered in a project (in terms of sizes, etc.), payment schedule of the project (in terms of down payment, frequency of payment, no of installments, frequency of payment, applicable development charges, etc.). Moreover, prior to announce registration, the approved layout plan is shared with the potential buyers/investors, which specifies location of the project, so that they are able to make an informed decision.
- 5.51 The consumers may fall prey to deceptive marketing in consumer goods as well as for high value items like real estate. But the degree of loss is much more in the latter case, which is evident from the Commission's observations **in the matter of M/s Vision Developers (Pvt.) Limited**⁸. *"The Commission noted that for the majority of population in this country, it almost lifetime saving or obtaining credit or loans from banks to make an investment such as the acquisition of a plot to secure a more stable future. Such a transactional decision is much more complicated and difficult one as against buying a household or shelved product from a supermarket. Therefore, the higher burden is placed on undertakings which operating in the real estate market, in relation to the accuracy of any claims or representations that they make in the course of their marketing campaigns"*.
- 5.52 In light of the above references, it can be established that the Undertaking intended to deceive the consumers and its actions were capable of misleading the consumers related to the price, properties (location) and characteristics (various other features) of the Project. It also left out very important and material information pertaining to the characteristics and approval status of the Project. Hence, taking into consideration all aspects of the marketing campaign, the net general impression created by the Undertaking through its advertisement campaign is, *prima facie*, false and misleading.

⁸ The order of the Commission can be seen at: https://www.cc.gov.pk/images/ms_vision_developer.pdf



5.53 Therefore, it can be concluded that the Undertaking has been found to be engaged in distribution of false and misleading information to consumers, through the use of phrase 'Kingdom Valley, Islamabad', claims of association with Naya Pakistan Housing Program and 'NOC Approved', which lacks a reasonable basis related to the price, characteristics, properties, quality and origin of the housing project, *prima facie*, in violation of Section 10 (2) (b) of the Act.

iii. **Whether the conduct of the Undertaking is in violation of Section 10 (1) of the Act in general?**

5.54 As summarized in Para No. 5.46 and 5.53 above, by having found to be *prima facie* violating Section 10 (2) (a) & (b) of the Act, the Undertaking has been found to be engaged in Deceptive Marketing Practices, thereby violating Section 10 (1) of the Act.

iv. **Whether there is a spillover effect of the conduct of the Undertaking?**

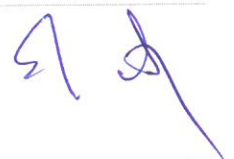
5.55 As regards the effect of anti-competitive behavior, spilling over territorial limits of other provinces is concerned, it is highlighted that the marketing campaign of the Undertaking was circulated nationwide via multiple forms of media, including but not limited to major sponsorship drives, thereby removing the intra provincial territorial boundaries.

6. CONCLUSION AND RECOMMENDATIONS:

6.1 The real estate market plays a vital role in the development of a country's economy, as a number of other sectors have close linkages with it. However, the real estate sector in Pakistan is not regulated by any single regulatory body at national level, which may exclusively be responsible to deal with all the relevant matters pertaining to the housing segment. Consequently, real estate, despite being a lucrative investment opportunity, becomes a cause of frequent suffering for the general public.

6.2 Hence, it can be concluded that the Undertaking has been found to be engaged in distribution of false and misleading information, through the use of phrase '**Kingdom Valley, Islamabad**', claims of **association with Naya Pakistan Housing Program** and '**NOC Approved**', which is capable of harming business interests of other undertakings, *prima facie*, in violation of Section 10 (2) (a) of the Act.

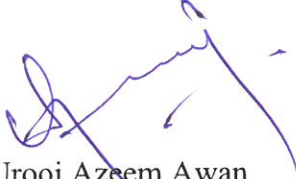
6.3 Therefore, it can also be concluded that the Undertaking has been found to be engaged in distribution of false and misleading information to consumers, through the use of phrase '**Kingdom Valley, Islamabad**', claims of **association with Naya Pakistan Housing Program** and '**NOC Approved**', which lacks a reasonable basis related to the price, characteristics,



properties, quality and origin of the housing project, *prima facie*, in violation of Section 10 (2) (b) of the Act.

6.4 In light of the above, the Undertaking has also been found to be engaged in Deceptive Marketing Practices, thereby violating Section 10 (1) of the Act. Moreover, the marketing activities of the Undertaking surpass the intra-provincial boundaries.

6.5 In view of the above, it has been concluded by the Enquiry Committee that the Undertaking has, *prima facie*, entered into deceptive marketing practices, violating the provisions of Section 10 (1) in terms of Section 10 (2) (a) & (b) of the Act. It is, therefore, recommended that in the interest of the public at large, proceedings may be initiated against M/s Kingdom Valley (Private) Limited under the provisions of Section 30 of the Act for, *prima facie*, violation of Section 10 of the Act.



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Enquiry Officer



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Enquiry Officer