

CCP's suo motu power stymied by lack of members

The federal government has yet to appoint 3 members of the Competition Commission of Pakistan (CCP) who retired in January 2017, rendering CCP unable to take suo motu actions against cartels with only 2 members. Under Section 14 of the Competition Act, 2010, the Commission must consist of not less than five and not more than seven Members. Vadiyya Khalil, Chairperson, and Ikram Ul Haque Qureshi, Member, are the only two Members currently serving at CCP.

Dr Joseph Wilson, completed his two consecutive terms in November 2016, and Mueen Batlay's and Shahzad Ansar's two consecutive terms ended in January, 2017 thus the position of three members of CCP remain vacant and are required to be filled through a competitive process.

Under the Competition Act, a Member is appointed for a term of three years, which is extendable for a final three-year term, after which the position has to be advertised through a competitive process. Sources in the Ministry of Finance told Business Recorder that the position of one Member was advertised on 18th December, 2016 while advertisement for two other Members was advertised on 26th February, 2017.

Sources further said that a large number of highly qualified and experienced candidates from public and private sectors applied for the positions. "The profiles of the applicants are being scrutinized so that persons of relevant experience are appointed on merit to run this important institution," the sources added. The delay in appointment of Members is said to be due to political turmoil created by the Panama papers. Since the new government is in place, the Ministry of Finance is expected to complete the process of appointing 3 CCP Members shortly.

Since January 2017, the Commission has initiated 16 enquiries for violation of Section 3, 4 and 10 of the Competition Act; 23 show cause notices are ready to be issued shortly; and it held 33 hearings and issued two orders. Nevertheless, the Commission has cleared 34 mergers and granted 20 exemptions in the same period.

Section 37(1) of the Competition Act, 2010 allows the Commission to take suo motu actions. Currently, with only two Members the Commission has been unable to exercise this power due to lack of quorum. However, under Section 37 (2) of the Competition Act, 2010, the Commission can conduct enquiries on formal complaints received from undertakings, issue show cause notices, hold hearings and pass orders. On the advocacy front since January 2017, CCP has held 17 seminars at universities all over Pakistan to introduce the Module on Economics and Competition Law that it has developed in collaboration with King's College London, for students and faculty of management sciences, economics and law. As part of the Academia drive, 7 seminars were held during November-December 2017.

On 5th December, 2016, the CCP launched Guidance on Competition Compliance, an easy-to-understand guide on the Competition Act, 2010, to encourage and promote voluntary compliance of the law. The first training session was held at the Overseas Investors Chamber of Commerce & Industry (OICCI) in Karachi on 23 May 2017, followed by three training sessions for the employees of Nestle to promote awareness of and compliance with the Competition Law. During the last two and a half years - since January 2015 - the Commission held 92 hearings, conducted 26 enquiries, passed 23 orders, approved 179 mergers, and issued 159 exemptions.

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