JUDGMENT SHEET
ISLAMABAD HIGH COURT, ISLAMABAD
JUDICIAL DEPARTMENT

1. Writ Petition No. 31 of 2014

China Mobile Pakistan Limited
Versus
Competition Commission of Pakistan & others

2. Writ Petition No. 32 of 2014

Pakistan Telecommunication Mobile Limited
Versus
Competition Commission of Pakistan and others

3. Writ Petition No. 34 of 2014

Warid Telecom Limited
Versus
Competition Commission of Pakistan and others

4. Writ Petition No. 42 of 2014

Telenor Pakistan (Pvt.) Limited
Versus
Competition Commission of Pakistan and others

5. Writ Petition No. 2901 of 2014

Pakistan Telecommunication Company Limited
Versus
Competition Commission of Pakistan and others

6. Writ Petition No. 2995 of 2014

Wi-Tribe Pakistan Limited
Vs
Competition Commission of Pakistan

7. Writ Petition No. 2757 of 2023

Pakistan Telecommunication Company Limited
Versus
Federation of Pakistan and others

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Petitioners by:	Mr. Sabir Hussain, Advocate for the petitioner in writ petition No.31/2014.
	Mr. Muhammad Ali Raza, Advocate for the petitioner in writ petition No.32/2014, 34/2014, 42/2014 and 2901/2014.
	Mr. Muhammad Uzair Bin Shafie, Advocate for the petitioner in writ petition 2757/2023.
	M/s Rashid Hanif and Muhammad Afsad, Advocates, for the petitioner in writ petition No.2995/2014.
Respondents by:	Mian Sami Uddin and Mr. Nasir Mehmood Advocates for the respondent/CCP
	Mr. Muhammad Umar Khan Vardag, and Faisal Bin Khurshid Advocates for the respondent No.3/PTA along with Syeda Itrat Batool, (Law Officer), Ch. Adil Javed, Director, PTA.
	Mian Muhammad Faisal Irfan, Deputy Attorney General.
Assisted by:	Muhammad Fahad and Muhammad Yahya Khan Niazi, Advocates.
Date of Hearing:	**08.09.2025.**

INAAM AMEEN MINHAS, J:- This judgment shall decide the afore-titled Writ Petitions, as these involved common questions of law and facts.

2. In the first six (06) afore-titled writ petitions, the petitioners have assailed the show cause notices **("Impugned SCNs")** issued by Competition Commission of Pakistan **("CCP")** under section 30 of Competition Commission Act, 2010 **("Act, 2010")** upon alleged violation of section 10; whereas in the last afore-titled writ petition (W.P. No 2757/2023), the petitioner has assailed the notice dated 09.05.2023 **("Impugned Notice")**

UNCERTIFIED

issued by CCP under section 33(1)(a) of Act, 2010 upon alleged anti-competitive behavior and misuse of dominant position.

I. Factual Background

3. Brief facts in W.P. No.31 of 2014, W.P. No.32 of 2014, W.P. No.34 of 2014, and W.P. No.42 of 2014 are that CCP acting under its statutory mandate, took cognizance of the imposition of additional charges by Cellular Mobile Telecom Operators **("CMTOs")** on the recharge of balance for prepaid collections. During preliminary investigation, it was observed that such charges may constitute hidden costs, creating a misleading impression regarding the actual cost of telecommunication services. Pursuant to this, the CCP, exercising its powers under sections 28(2) and 37 of the Act, 2010 constituted an Enquiry Committee, whose Enquiry Report stated that the levy of such charges *prima facie* amounts to deceptive marketing practices under section 10(2)(b) of the Act, 2010. Therefore, Show Cause Notices Nos. 26/2013 in W.P. No.31/2014, 24/2013 in W.P. No. 32/2014, 25/2013 in W.P No.34/2014, and 23/2013 in W.P. No. 42/2014 all dated 19.12.2013 were issued under section 30 of the Act, 2010, requiring the undertakings to explain as to why an appropriate order/action under sections 31(b) and 38 of the Act, 2010 should not be made.

4. Facts in W.P. No. 2901 of 2014 and W.P. No. 2995 of 2014 are that CCP initiated an inquiry under section 37(2) of the Act, 2010, on a complaint by a consumer of M/s Wi-Tribe alleging that Internet Service Providers **("ISPs")**, including the petitioners i.e. PTCL and Wi-Tribe Pakistan Limited, misrepresented their internet packages as unlimited while imposing usage limits. During the enquiry, advertisements of the petitioners' EVO services were examined, which were marketed as unlimited but subject to a fair usage policy i.e. when the users reached to a certain threshold of data usage it reduces the speed of the internet services. The Enquiry Committee, vide its report dated 04.04.2014, found *prima facie* that such representations amount to deceptive marketing practices under section 10 of the Act, 2010. Consequently, Show Cause Notices Nos. 06/2014 in W.P. No. 2901/2014, and 03/2014 in W.P. No. 2995/2014 both dated 22.05.2014 were issued to the

UNCERTIFIED

petitioners, requiring them to explain their position before any determination under sections 31 and 38 of the Act, 2010.

5. Facts in W.P. No. 2757 of 2023 are that CCP initiated an enquiry against the petitioner on a complaint filed under section 37(2) of the Act, 2010, by Cyber Internet Services (Pvt.) Limited alleging discriminatory pricing in the Fixed Local Loop **("FLL")** services market. CCP vide its letter dated 05.04.2019 called upon the petitioner to furnish certain information regarding the discriminatory prices in FLL services. The petitioner furnished detailed responses providing relevant information regarding the Universal Access Number (UAN) and Toll-Free Number (TFN) services, clarifying that these are value-added corporate services not intended for the general consumer market, however the CCP sought additional information, which was refused by the petitioner on the ground that CCP lacks the adequate authority to requisition such confidential and classified information. Consequently, CCP issued Enquiry Notice under section 33(1)(a) of the Act, 2010, dated 05.09.2023, requiring the petitioner to appear before it on 13.09.2023.

II. Submissions of the Petitioners'

6. The learned counsels for the petitioners contended that under section 4(m) of the Pakistan Telecommunication (Re-Organization) Act, 1996, **("Act, 1996"),** Pakistan Telecommunication Authority **("PTA")** being specialised authority has the powers to regulate competition in the telecommunication sector and protect consumer rights, whereas CCP, being a general competition regulator, cannot usurp or override the powers of a sector-specific statutory body, particularly where the subject matter relates to consumer protection and pricing of services, and therefore the Impugned SCNs and Impugned Notice have been issued with *malafide* and are without lawful authority and *coram-non-judice*. The learned counsels for the petitioners further contended that the allegations in the Impugned SCNs and Impugned Notice are false, frivolous, and based on lack of understanding of the specialized mechanics of charges in the telecom sector. They also submitted that the operational charges levied are not hidden or misleading but represent legitimate costs of doing business, including administrative, distribution, and account-maintenance expenses,

UNCERTIFIED

which cannot feasibly be absorbed into call charges and without appreciating these distinctions, the CCP has wrongly assumed its jurisdiction by attempting to dictate the mechanics of cost recovery, which amounts to tariff fixation, a function under the exclusive domain of sectoral regulator; and allowing CCP to proceed with the Impugned SCNs and Impugned Notice would amount to double jeopardy, as proceedings regarding similar deductions and consumer complaints are already pending before PTA; and lastly prayed that the Impugned SCNs and Impugned Notice be declared void, without jurisdiction, and of no legal effect.

III. Submissions of CCP

7. The learned counsel for CCP contended that CCP is the sole statutory authority empowered under the Act, 2010 to enforce prohibitions on anti-competitive agreements, abuse of dominant position, deceptive marketing practices, and mergers and acquisitions which substantially lessen competition across all sectors of the economy to protect the welfare of consumers; and that section 59 of the Act, 2010 has overriding effect, ensuring that the Commission's mandate is not curtailed by any sectoral legislation. The learned counsel for CCP further contended that the issuance of Impugned SCNs under section 30 and Impugned Notice under section 33 of the Act, 2010 is not an adverse order rather an initial procedural step, affording the petitioners due process and opportunity of hearing before any determination is made; and all the petitions are premature as alternate statutory remedies are available under the Act, 2010; therefore the petitions are not maintainable in constitutional jurisdiction under Article 199 of the Constitution, as it is an attempt to evade lawful scrutiny of business practices that may adversely affect consumers, hence, liable to be dismissed.

IV. Submissions of PTA

8. The learned counsel for PTA submitted that PTA is vested with regulatory powers under the Act, 1996 to oversee and monitor the telecom sector, including licensing of operators, quality of service, protection of consumer rights, and maintain healthy and fair competition in telecom sector

UNCERTIFIED

under sections 4(1)(d), 4(1)(m) and 6(e) of PTA, 1996. The learned counsel explained that mechanisms such as Significant Market Player **("SMP")** ensures that competition is preserved and that no CTMO abuses its position to the detriment of consumers. The learned counsel further submitted that superior Courts have recognized the concurrent jurisdiction of PTA and CCP, whereby CCP remains competent to inquire into competition-related issues in the telecom sector and PTA continues to exercise its regulatory functions as well as maintain healthy competition.

9. In all the afore-titled writ petitions the genesis of dispute emanates from the CCP's statutory mandate to curb deceptive marketing, anti-competitive behaviour and protect consumers from such practices. Even though the facts in afore-titled writ petitions are distinct in nature, the jurisdictional issues raised by the parties therein are substantially identical and need not to be reiterated separately for the sake of brevity.

10. I have heard the learned counsel for the parties and gone through the record.

V. Questions for Determination

11. The crux of the dispute lies in question of jurisdiction, as stance of the petitioners is that matters of competition in the telecom sector fall exclusively within the domain of PTA, whereas CCP, as a market regulator, asserts an overriding and broader mandate to examine such matters across every sector/industry. The controversy is narrowed down to the following two questions for determination by this Court:-

I. *Whether the CCP possesses jurisdiction under the Act, 2010 to inquire into alleged deceptive marketing practices in the telecom sector, or whether the PTA, being the sectoral regulator under the Act, 1996, has exclusive jurisdiction in such matters, or both statutory bodies exercise concurrent jurisdiction?*

II. *Whether the issuance of Impugned SCNs and Impugned Notice by CCP constitutes an adverse order amenable to constitutional jurisdiction*

UNCERTIFIED

under Article 199 of the Constitution, or whether the availability of statutory remedies renders the present petitions premature and not maintainable?

A. Legislative Object, Scope, and Remedial Mechanism under the Act, 2010 and the Act, 1996

12. To address the first question, it is necessary to examine the purpose, object, scope and remedial portion of the Act, 1996 and Act, 2010. The Act, 1996 was enacted to regulate and develop the telecommunication sector, and PTA an independent regulator was established to regulate the telecom sector, including consumer protection and fair competition among licensees. On the other hand, the Act, 2010 confers on CCP a mandate to oversee competition and consumer protection on a uniform basis across all industries/sectors. These two statutes therefore reflect distinct legislative schemes, one sector-specific and the other cross-sectoral, each with provisions that may potentially intersect in matters such as fair competition and deceptive marketing within the telecom industry.

13. It is manifest that the controversy arises from the apparent conflict between the overriding clauses contained in both enactments based on which the parties claim to have exclusive jurisdiction of either statutory body. Before embarking upon the discussion on the meaning and scope of overriding provisions in both enactments it would be expedient to understand the legislative policy in promulgating the Act, 2010. The preamble to the Act sets out its objective and provides for free competition in all spheres of commercial and economic activity to enhance economic efficiency and to protect consumers from anti-competitive forces and provide for establishment of the CCP to maintain and enhance competition and for matters connected therewith or incidental thereto. The preamble to a statute is though not an operational part of the enactment but it provides the purpose and intent of the legislature, which necessitated the legislation on the subject; therefore, it holds a pivotal role for the purposes of interpretation in order to dissect the true purpose and intent of the law. Free and fair competition is based on quality, price, and service rather than unfair practices. When competitors can

UNCERTIF

compete freely on a level playing field, economies are more likely to thrive. On the other hand, unfair competition is using illegal, deceptive, and fraudulent selling practices that harm consumers or other businesses to gain a competitive advantage in the market. The competition law regulates the conduct and organization of businesses in order to promote competition and prevent anti-competitive behaviuor; therefore, CCP exercised its statutory mandate and issued Impugned SCNs under section 30, and Impugned Notice under section 33 of the Act, 2010 on the premise of alleged deceptive marketing, anti-competitive conduct and abuse of dominant position.

14. On the other hand, the preamble of the Act, 1996 reflects that the Act was enacted as a reformatory measure, designed primarily to restructure the telecommunication industry in Pakistan through the establishment of regulatory and institutional bodies such as the Pakistan Telecommunication Authority, the Frequency Allocation Board, the National Telecommunication Corporation, and the Pakistan Telecommunication Employees Trust. The preamble further underscores two cardinal purposes: first, to regulate and oversee the telecommunication industry in a structured and coordinated manner; and second, to facilitate the transfer of telecommunication services from the public to the private sector, thereby promoting liberalization and efficiency. Matters incidental or connected therewith are also brought within its domain, thus indicating that the Act, 1996 is sector-specific, regulatory in nature, and primarily concerned with governance, regulation, and transition of the telecommunication sector and certain incidental provisions relating to fair competition and consumer rights protection therewith. Now, it will be relevant to reproduce the overriding provisions in both laws herein as under:-

Pakistan Telecommunication (Re-organization) Act, 1996	**Competition Act, 2010**
Section 58. Ordinance to override other laws. *The provisions of this Act shall have effect notwithstanding anything contained in the Telegraph Act, 1885 (XIII of 1885), the*	**Section 59. Act to override other laws.** *The provisions of this Act shall have effect notwithstanding anything to the contrary*

UNCERTIFIED

Wireless Telegraphy Act, 1933 (XVII of 1933), or any other law containing any provision inconsistent to this Act.	*contained in any other law for the time being in force."*

15. The above referred provisions clearly reflect that overriding clause of the Act, 1996 is sector specific inasmuch it refers expressly to the Telegraph Act 1885, the Wireless Telegraphy Act 1933, and **"any other law"** inconsistent with the Act, 1996, whereas the overriding clause of Act, 2010 is more broader and general i.e. it applies over **"anything contrary in any other law for the time being in force."**

16. This Court observes that both enactments show a clear distinction in their treatment of competition matters. Although sections 4(m) and 6(e) of the Act, 1996 refer to regulation of competition and protection of consumer rights, the statute neither defines anti-competitive practices nor provides any substantive mechanism for their enforcement. Its penal provisions, including sections 23 and 31, are confined to contraventions of its own Act, rules, or regulations, and remain silent on competition-specific breaches, rendering PTA's role incidental and ancillary. On other hand, the Act, 2010 was introduced with the express object of regulating competition across all sectors. It prohibits anti-competitive agreements, abuse of dominance, and deceptive marketing practices, and establishes a detailed remedial mechanism and framework.

B. Interpretative Principles on Conflicting Statutes

17. The foremost principle is the doctrine of *lex specialis derogat legi generali*, namely, that a special law prevails over a general law. Jurisprudentially and in practice, this principle postulates that where two enactments govern the similar situation, the statute dealing with a particular subject-matter (*lex specialis*) overrides the statute which addresses the subject in more general terms (*lex generalis*). The Act, 2010, being a comprehensive law within its purpose, scope, object and remedial portion on competition,

UNCERTIFIED

constitutes *lex specialis* governing all competition-related matters across all sectors.

18. The second principle is *lex posterior derogat priori* i.e. law later in time prevails; this principle states that a later enactment with a non obstante clause can override prior one, unless legislature clearly intended otherwise. The interpretative rule consistently expounded by the superior Courts of Pakistan is that, where there exists overriding clauses between two special enactments, the later statute shall prevail over the prior one. In the case of ***Syed Mushahid Shah vs. FIA, (2017 SCMR 1218),*** the Honourable Supreme Court held that:-

> *"Thus, when there are two special laws both of which contain overriding clauses, in the case of conflict between the two laws generally the statute later in time will prevail over the statute prior in time. However, we are of the opinion that this presumption is not automatic: instead a host of other factors including the object, purpose and policy of both statutes and the legislature's intention, as expressed by the language employed therein, need to be considered in order to determine which of the two special laws is to prevail."*

19. Further reliance is placed on ***Messrs Federal Bank for Cooperatives, Islamabad vs. Commissioner of Income Tax, Companies Zone, Islamabad (2021 PTD 1203, Islamabad)***, ***Muhammad Ghias vs. Market Committee Kamalia, (PLD 1982 Lahore 710),*** and ***Sui Northern Gas Pipeline Limited (SNGPL) vs Director (Legal), President Secretariat (Public), (PLD 2018 Islamabad 51)***. In *Sui Northern Gas Pipeline Limited supra* this Court held that:-

> *"18. In view above discussion on two special laws, it can safely be concluded that when two special laws deal with similar situation, then question of jurisdiction has to be seen in the light of its nature, object, scope and remedial portion provided therein in ordinary meaning which is called as literal approach of reading a statute to understand its true legislative intent. It is also settled proposition of law that special statute prevails over general statute and similarly, general provisions and special provisions in same statute would have different effect, when the plain and simple meaning of a provision of law is clearly understandable without any ambiguity then nothing is to be presumed or imported from outside. Reliance is placed upon 2014 SCMR 671 (The State v. Syed Ali Baqar Naqvi and others). Even otherwise, the Courts have to decide any question in*

UNCERTIFIED

> *accordance with law and every citizen has right to be dealt in accordance with law under Article 10-A of the Constitution of Islamic Republic of Pakistan 1973. It is also settled proposition of law that in construing and interpreting a special law, the Court has to look at the reasons and background, which influenced the mind of the legislature in enacting the special law and the history of events, which had occurred preceding the enactment of the special law. Similarly, in construing and interpreting Statute, the fundamental principle is to discover the true intent of the legislature enacting a particular law to meet a particular situation and to confront a specific emerging threat or situation. Reliance is placed upon 2017 5CMR 1572 (Waris Ali and 5 others v. The State*)."

20. Another well-settled canon of interpretation, *albeit* distinct in its application, is the principle of harmonious construction. This principle requires that when two statutes or provisions appear to overlap, the Court must strive to give effect to both by reconciling their language and purpose in a manner that allows them to operate concurrently without displacing the jurisdiction of the other. Thus, in the present case PTA regulates technical and operational matters and has a role in curbing unfair practices within the telecom sector, CCP retains its mandate to address deceptive marketing and anti-competitive conduct. Neither authority can wholly exclude the other, rather, the concurrent roles of both CCP and PTA must be exercised within their statutory limitations, ensuring that the objectives of both laws are preserved. Unless there exists a clear and irreconcilable conflict, the Courts must lean in favour of a harmonious interpretation to avoid overlap, redundancy, thereby allowing each law to operate effectively within its occupied field.

21. In the case of ***Messrs Federal Bank for Cooperatives, Islamabad vs. Commissioner of Income Tax, Companies Zone, Islamabad (2021 PTD 1203, Islamabad)*****,** a division bench of this Court, while construing the meaning of seemingly conflicting provisions between special laws, formulated the following principles of interpretation:-

> *i. While applying seemingly conflicting provisions of two statutes a court must seek to interpret them in a manner that affords harmonious construction and prevents the emergence of a conflict between their provisions. It is to be assumed that in the event the*

UNCERTIFIED

legislature wished to override an existing law it would do so explicitly and thus the doctrine of implied repeal is not to be readily or mechanically invoked.

ii. *Special law prevails over general law. And in a conflict between two special laws the one later in time will ordinarily prevail for being an embodiment of the latest expression of the legislature intent. But, as aforesaid, this principle is not to be mechanically applied as being aware of an earlier special law, the legislature could override the same through explicit language in a subsequent special law if it is so wished.*

iii. *In the event that there is contradiction between the provisions of two statutes it is to be presumed that the statute within the provision of which the legislature has included a non-obstante clause is to be given overriding effect over provisions of the other statute that it is in conflict with, in order to give effect to expressed legislative intent. In the event that both statutes contain non-obstante clauses, the special law will prevail over general law, and the law later in time will ordinarily prevail in case of conflict between two special laws). However, a non-obstante clause is also not to be given overriding effect in a mechanical fashion as the underlying object of the interpretive project undertaken by the court is to discover the meaning of words used by the legislature: a non-obstante clause is usually employed to suggest that the provision referred to in the non-obstante clause is to prevail over other provisions of the statute, but repugnancy between non-obstante clause and other clauses is not to be presumed and overriding effect is to be accorded only in case of irreconcilable conflict.*

iv. *In the event that harmonious construction cannot be accorded to the provisions of two special statues without giving tortured meaning to the words used in the text, the object, purpose and policy of the statutes is to be borne in mind in order to discover the legislative intent regarding which statute is to be given overriding effect and to be treated as the special law with overriding effect over another special law. It is possible that a law is to be treated as a special law vis-a-vis one enactment and general law vis-a-vis another enactment."*

22. Upon a careful exposition of the foregoing principles and their applicability to the present petitions it is clear that the legislative intent

UNCERTIFIED

underlying both enactments establishes that the primary statutory mandate under the Act, 1996 is essentially confined to regulating the technical, operational, and licensing aspects of the telecom sector, with an incidental role of the promotion of fair competition within telecom industry. The pith and substance of the Act, 2010 demonstrates that CCP has overarching jurisdiction, across all sectors of the economy, including telecommunications. Its functions are not limited to mere regulation but extend to the prevention and prohibition of anti-competitive behaviour, abuse of dominance, collusive arrangements, and deceptive marketing practices that may distort market dynamics or harm consumer welfare. PTA may continue to regulate the telecom industry within its domain and protect consumers' rights, the CCP possesses the primary authority to examine and address the broader implications of competition-related conduct within telecom industry. Both the frameworks thus operate in distinct yet complementary domains, and the exercise of jurisdiction by the CCP in matters of deceptive marketing or anti-competitive practices cannot be construed as an encroachment upon the regulatory sphere of the PTA. Therefore, this Court is of the considered view that, without ousting the role of the sectoral regulator PTA, the CCP has jurisdiction to inquire into and adjudicate upon issues related to competition in telecom sector.

23. This Court further observes that the Act, 2010 also brings the governmental bodies including a regulatory authority like PTA under the ambit of CCP and such governmental bodies or regulators could be tried for violating the provision of Act, 2010. It is relevant to reproduce the definition of undertaking hereunder as:-

> ***2(1)(q) "undertaking"*** *means any natural or legal person, governmental body including a regulatory authority, body corporate, partnership, association, trust or other entity in any way engaged, directly or indirectly, in the production, supply, distribution of goods or provision or control of services and shall include an association of undertakings; and*

UNCERTIFIED

24. The above referred definition of undertaking provides that ***governmental body including a regulatory authority*** shall be deemed to be an undertaking, and section 2(1)(q) in conjunction with sections 4, 10 and 11 leaves no doubt that even the regulator i.e. PTA can come under scrutiny of CCP for anti-competitive behaviour. Experience also demonstrates that sectoral regulators may, at times, exhibit greater alignment with the interests of the entities they regulate, a phenomenon commonly referred to as "regulatory capture." Hence, this Court finds the petitioners' argument misconceived that the CCP cannot take cognizance and exercise jurisdiction over the conduct of telecom licensees as they are subject to PTA's regulation. In a similar matter where there was a dispute on jurisdiction between Intellectual Property Organization of Pakistan Act, 2012 and the Act, 2010, the Lahore High Court has decided in ***Meezan Beverages (Pvt) Limited vs Competition Commission of Pakistan, (2024 CLD 1107)*** wherein it has been held that:

> *"18. Putting the Act in juxtaposition to the IPO Act, a simple and straight forward conclusion is evident that both the enactments have conspicuously distinct purpose, scope, and mandate. The Act relates to competition law, whereas, the IPO Act pertains to intellectual property laws. Each enactment has created a specialized regulatory body and has put in place a self-contained regulatory framework to administer duties and obligations imposed by law. The IPO Act consciously excludes the Act from its Schedule and as such, the legislature has intentionally kept the Act beyond the purview of the IPO Act. Hence, 'deceptive marketing practices' under Section 10 of the Act constitute a necessary and essential element of competition law, jurisdiction of which is vested with the CCP under the Act. It is invoked and employed in the context of enforcement of competition law and the same has no relation, nexus or connection with breach or infringement of intellectual property rights under the intellectual property laws included in the Schedule of the IPO Act which have their own dimensions, contours and consequences being subject of jurisdiction of the Tribunal under the IPO Act. As such, violations of Section 10 of the Act in terms of 'deceptive marketing practices' under the Act has different ingredients than 'infringement of intellectual property rights' under the 'intellectual property laws', although an impugned action may entail concurrent proceedings within the distinct scope, mandate and ambit of the Act and the IPO Act. The distinction becomes more vivid as there is no requirement of 'breach of intellectual property rights' under the 'intellectual property laws' including the Trade Marks Ordinance to invoke and trigger the jurisdiction of the CCP*

UNCERTIFIED

> *under the Act in terms of 'deceptive marketing practices'. The consequences and penalties for 'deceptive marketing practices' under provisions of the Act are contrastingly different from the 'infringement of intellectual property laws' under the IPO Act. This conclusion is manifestly evident from the express exclusion of the Act from the Schedule of the IPO Act. Hence, the argument that exclusive jurisdiction of the Tribunal to adjudicate claims of infringement of intellectual property laws and offences under the IPO Act being a subsequent enactment impliedly excludes jurisdiction of the CCP in terms of deceptive marketing practices under Section 10 of the Act is completely misconceived since jurisdiction of the CCP under the Act and the IPO or the Tribunal under the IPO Act are distinct and separate in terms of ambit and scope of such laws and does not amount to any inconsistency or conflict of jurisdiction. Therefore, the objection that the impugned SCN has been issued by the CCP without jurisdiction is discarded, accordingly."*

C. Initial Forum of Cognizance and Extent of Jurisdiction of Either Statutory Body

25. There is another aspect of the matter that arises for consideration is that which forum may assume jurisdiction in the first instance, and to what extent such jurisdiction may lawfully and legitimately be exercised. The determination of which forum may assume jurisdiction in the first instance, must be guided by the object and scheme of the respective statutes, read in conjunction with the settled principles of statutory interpretation that govern the resolution of conflicts between competing enactments. In this regard the case of ***Saiyyid Abul Ala Maudoodi vs. Govt of West Pakistan, (PLD 1964 SC 673 at P. 781[HHH]),*** provides wisdom wherein it was held:-

> *"This is another aspect of the matter which does not appear to have received consideration in the High Courts, namely, as to whether where action producing the same result in pith and substance is possible under two different statutes upon the same grounds it would not be legitimate to hold that action should more appropriately be taken under the special statue dealing specially with the subject-matter by expressly specifying the grounds upon which action can be taken and providing a special method of action rather than under a general statute, particularly, where the special statute provides a more beneficial remedy or method of taking action. In such circumstances I would have no hesitation in holding that where a special statute dealing with a special subject*

UNCERTIFIED

> *created special liabilities as also provide a special remedy or procedure for the enforcement of that liability then in order to bring about the consequences contemplated by that statute for the breaches of its provisions recourse should be had to that statute and to no other statute."*

26. Accordingly, where two different laws can be used to deal with the same issue, the law that is specifically made for that subject should be applied instead of a general law. This is because the special law sets out the exact grounds, liabilities, and procedures for dealing with the matter, and often provides more effective remedy. So, if a special law exists to address a particular problem, action should be taken under that law in the first instance and not under a general law. Thus, where the issue/dispute involves allegations of anti-competitive practices, cartelization, deceptive marketing or abuse of dominant position extending beyond the confines of telecom regulation, the CCP would assume the jurisdiction in first instance since the matter squarely falls within the exclusive domain of the CCP under the Act, 2010.

27. Even otherwise, the primary mandate of a sectoral regulator, PTA, is to exercise efficient regulatory oversight within the parameters prescribed by its governing statute. However, the prevention of deceptive or anti-competitive conduct does not prominently feature within its regulatory framework, nor does the governing statute expressly address such concerns. In juxtaposition, the CCP, being a statutory body vested with specialized competence, expertise, and capacity in the domain of competition law, is uniquely positioned to apply uniform principles of competition across all sectors of the economy. The rationale of economic efficiency equally supports this approach, as it is a settled principle that the entity best equipped to discharge a function in an effective manner should be entrusted with it.

VI. Maintainability: Premature Invocation of Constitutional Jurisdiction

28. This Court will now address the second question that *whether the issuance of Impugned SCNs and Impugned Notice by CCP constitutes an adverse order amenable to constitutional jurisdiction under Article 199 of the*

UNCERTIFIED

Constitution, or whether the availability of statutory remedies renders the present petition premature and not maintainable? In the present case, the CCP issued Impugned SCNs upon imposition of additional charges by CMTOs on the recharge of prepaid balances which gives deceptive and misleading impression to an ordinary consumer. On this basis, the CCP, invoked its powers under Section 28(2) and Section 37 of the Act, 2010, constituted an Enquiry Committee which, upon conclusion, reported that the levy of such charges prima facie amounted to a deceptive marketing practice under Section 10(2)(b) of the Act 2010, and called upon the undertakings to explain their position and avail the opportunity of hearing. It is, therefore, apparent that the proceedings are at the very initial stage and no adverse finding has yet been recorded.

29. This Court would like to consider that whether the petitioners can file a constitutional petition against the issuance of Impugned SCNs and Impugned Notice at the very initial stage, which is simply an opportunity to explain the position in the course of the proceedings. In case of adverse result of investigation arising out of Impugned SCNs and the Impugned Notice, the petitioners will have the remedy of appeal and in presence of such adequate and alternate remedy, interference by this Court at this juncture will create hurdle for statutory body to exercise its statutory functions. Honourable Supreme Court in ***M/s Payoneer Inc., New York, United States of America through its authorized officer vs. Federation of Pakistan, through Secretary Revenue Division, Ministry of Finance, Govt. of Pakistan, Islamabdad and others,*** **(2025 SCMR 952)** held that if a better statutory recourse is available under any law then extraordinary writ jurisdiction can only be invoked under exceptional circumstances, which do not exist in the present petitions.

30. Moreover, the objections raised by petitioners on the grounds of technicalities and mechanics involved in telecom industry that the exercise of such actions of CCP amounts to tariff fixation, a function under the exclusive domain of sectoral regulator, is untenable. In such circumstances, this Court would restrain to exercise discretion in petitioners' favour to thwart the whole process arising out of the Impugned SCNs and Impugned Notice, and set aside

UNCERTIFIED

notices on any of the technical ground, which would amount to interfering in the exercising of functions of statutory body at the initial stage of investigation and also jeopardize the intent of legislator behind enactment of the Act 2010. Superior Courts have consistently held that the issuance of a SCNs does not, in itself, constitute a cause of action amenable to writ jurisdiction. In this regard the Lahore High Court in case of ***Sadiq Poultry (Private) Limited vs. Federation of Pakistan and others***, **(2025 CLD 90)** held as under:-

> *"19. This petition was filed against the "impugned notices" by the "Petitioners", which is not an adverse order and by agitating the same against such an injury which is neither actual nor immediate rather perceived and suppositious. The issuance of the "impugned notices" is an initial yet primary step of the process to ensure fair opportunity, which is also akin to probability of mediation as well pointed out by the Supreme Court in Commissioner Inland Revenue v. Messrs RYK Mills (2023 SCMR 1856). It is an opportunity for the "Petitioners" to explain their position and if they do so, the "impugned notices" are and ought to be deemed satisfied without any further adverse action. As the matter has not been ripened under Chapter IV of the "Act" under which certain powers have been given to the Regulator to decide the matter and once it is decided by the "CCP", the "Petitioners" have the remedies under Section 41 of the "Act" by way of an appeal before the Appellant Bench of the Commission and appeal to the Competition Appellate Tribunal under Section 42 of the "Act" and further appeal to the Supreme Court under Section 44 of the "Act", and such remedies have not been exhausted by the "Petitioners". This Court in Chenab Flour and General Mills v. Federation of Pakistan and others (PLD 2021 Lahore 343) has held that if a Regulator is barred from exercising any of such functions, the purpose of law will not only be compromised but the intent behind making of such law will also be jeopardized. Moreover, if the Court starts interfering at initial steps of the Regulator for not initiating inquiry, then it will create hurdle for the Regulator to proceed in the matter to protect the very purpose and object of law. It is settled law by now that this Court, before granting relief to a Petitioners by exercising its extraordinary jurisdiction under Article 199 of the "Constitution", must satisfy itself regarding the non-availability of any alternate remedy, or in case Court is inclined to grant relief even in presence of alternate remedy, Court should be satisfied that circumstances of the case make the other remedy inadequate…."*

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31. It is observed that indeed the writ jurisdiction of this Court is not meant to restrain the competent statutory body CCP from taking action under law against the undertakings under the Act 2010, against whom *prima facie* evidence showing involvement in the deceptive marketing is available. Any interference by this Court at this very initial stage of the proceedings would be disharmonious to the principle of good governance and against the welfare of consumers.

32. In view of the above legal and factual position, this Court is convinced not to interfere in the proceedings initiated by CCP, in writ jurisdiction under Article 199 of the Constitution. Hence the afore-titled writ petitions are hereby **dismissed.**

(INAAM AMEEN MINHAS)
JUDGE

Announced in open Court on 29.09.2025.

JUDGE

APPROVED FOR REPORTING

Basit Ali & R. Anjam

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