

## BARRIERS TO EFFECTIVE COMPETITION LAW ENFORCEMENT IN PAKISTAN

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### Abstract:


*The paper discusses multiple barriers that are impeding the successful enforcement of competition law in Pakistan. Even though competition laws are crucial for maintaining a level playing field in the market, implementing them in Pakistan is not easy. In this study, we identify and examine main institutional, legal, economic and political obstacles to enforcement by Competition Commission of Pakistan (CCP). They also include institutional-based barriers, such as resource limits, shortcomings in specialized expertise, and inadequate enforcement. Authority. From a legal standpoint, ambiguities exist within the Competition Act 2010 and lengthy judicial processes impede the expedited disposal of cases. Economically, the domination of large holding companies poses a serious obstacle to retaining competitive markets, while politically, excessive pressure and the prevailing omnipresent corruption seriously complicate the work of law enforcement bodies. This research draws upon a comparative analysis with countries that have successfully responded to certain common challenges and extracts the best practices and lessons that Pakistan can learn from. The paper offers specific suggestions that could help make institutions stronger and the legal framework tighter, besides increasing transparency, to reduce political meddling. In sum, the study concludes that a number of changes are demanded in the reform in the competition laws in Pakistan and to endow the CCP with the sufficient powers to make competition laws work effectively for the economy of Pakistan and for the welfare of Pakistani consumers. Ongoing reforms and their effects should thus be the key focus of future research, aiming at a more dynamic reconstruction of the severely broad changes that Pakistani competition law enforcement underwent.*

*Keywords - enforcement, suggestions, competition, welfare, Authority*

### 1. INTRODUCTION

Given the role competition law (which remains a key module in sustaining the principle of free and fair competition in the markets) plays in contemporary economic policy, its importance cannot be underestimated anywhere in the world. This area of law has an extremely important role in protecting the interests of consumers and ensuring that they source for the best goods and services at competitive prices by ensuring competition in the marketplace through the prevention of collusive and monopolistic practices by companies such as cartels and monopolies which would adversely affect fair competition practices (Ahmad, 2021). It also promotes competition, encourages innovation, and advances productivity within firms making it vital to the health and well-being of the economic growth of a country.

Competition law is designed to level the playing field so that companies have an opportunity to compete fairly and engage in continuous competitive rivalry, the driving force behind economic dynamism and consumer welfare (Ali & Khan, 2022). The laws prevent unfair trade practices to stop the concentration of economic power in few hands and to encourage wider growth. This creates a wealth of options and advantageous prices for consumers, and it keeps the competitive field clear



for businesses like yours - companies succeed or fail based on their ability to compete in the playing field of efficiency and innovation vs. monopolistic practices.

## 2. RELEVANCE TO PAKISTAN

Given the mix of the rapidly expanding sectors such as telecommunications, finance, and manufacturing among others that prevail in Pakistan, enforcement of robust competition law is even more relevant. The functions are performed by the Competition Commission of Pakistan (CCP), a statutory body established to enforce competition policies and to prevent economic activities forming cartel that runs by four or more business entities or that otherwise harms the use of competition in markets in Pakistan (Usman & Ali, 2022). In addition to serving regular consumers, proper enforcement of competition laws in Pakistan also entices foreign investment, for these laws not only protect potential domestic/international investors from business practices that restrict competition, but also tell them that the business operating environment in this particular country is fair and competitive. The presence of large conglomerates and family-owned businesses is a defining feature of a developing Pakistani economy and brings additional risks of monopolistic and oligopolistic behavior that could reduce competition and innovation.

- **Challenges Overview**

In spite of the obvious advantages of implementing competition laws, Pakistan continues to be plagued by a number of challenges that undermine the veracity of these legal frameworks. These challenges are diverse and range from institutional and regulatory to economic and political. Institutionally, the CCP struggles from limitations of resources, expertise among the staff available to it, and enforcement capabilities, a shortcoming that undermines the effectiveness of its rulings. Ambiguities in the law make the legal and regulatory front a minefield, through which businesses can escape compliance through loopholes. A small group of large companies tend to hold disproportionate market power and regulatory power, which can be difficult to break down or change from a regulatory perspective, yet have substantial incentives to engage in regulatory capture. On the political end, enforcement actions can be undermined by the power of big business lobbies and corruption at various levels of governmental institutions, with disbalance decision outcomes only complicating matters further.

This paper attempts to address this issue by offering a detailed analysis of these non-tariff barriers, deploying strategic reforms, and further providing best practices from across the globe. Pakistan has the potential to improve and strengthen its competition law enforcement regime, and thus develop a more level playing field for all stakeholders in the economy, promoting healthy competition, growth, and innovation. The ultimate objective is not only to have Pakistan's competition law enforcement in accordance with international best practice, but that it meaningfully supports the nation's economic and consumer welfare objectives.

- **Purpose of the Study**

This study primarily aims to identify, analyze and recommend solutions to the challenges impeding the enforcement of competition law in Pakistan. In particular, this research seeks to:

Specifically, the proposed study aims to: **Identification:** This study seeks to identify the significant institutional, legal, economic and political bottlenecks that stand in the way of effective competition law enforcement in Pakistan. This includes a root and branch audit of the regulatory architecture, the internal governance weaknesses of the enforcement authorities and the hidden influences on enforcement outcomes.

**Analysis :** To give all aspects of how these barriers, if there, do not let the functionality of the Competition Commission of Pakistan (CCP) and the economy to work for the larger end. This analysis targets the complexities of the issues by the interdependence of the factors and how they cumulatively affect the market dynamics.

**Outcomes:** To recommend concrete and impactful actions to solve these impediments. This includes the recommendation of specific reforms in policy and practice (informed by cutting-edge evidence from successful models in similar economic and social contexts in other jurisdictions. The emphasis

is to improve enforcements agencies operational capabilities, streamline the legal framework to plug loopholes, and create a culture of transparency and accountability in economic regulation.

- **Thesis Statement**

This research posits that effective competition law enforcement in Pakistan is critically impeded by a historical mix of institutions, laws, economies, and politics. Each of conception, enforcement, and implementation barriers bring in their own set of challenges and to add to that, when each of the categories work together, the problems thus amassed create such an environment where the advantages of healthy competition laws are not even a pipe dream. To address these multifaceted challenges, a comprehensive solution is needed – one that includes reforms that are designed to recognize the unique circumstances and requirements of Pakistan's economic regulatory infrastructure. This article, by means of comprehensive digging down the points at issue, wishes to provide some pertinent reflections and workable solutions for a better implementation of competition law in Pakistan. Competition law existed long before it was introduced in the realm if Pakistan, let us discuss the historical context.

### 3. ORIGATION OF LAWS ON COMPETITION

The origins of the competition law of Pakistan can be traced back to the days immediately succeeding the independence of the country as a new-born State in 1947. The laws initially did not directly relate to competition, rather to ensuring the market was not regulated as a monopoly or in the interest of the general interest through separated, albeit occasional means. The structured regime for competition law enforced by the PTC was started by introduction of the Monopolies and Restrictive Trade Practices (Control and Prevention) Ordinance, 1970. The legislation was intended to address the ill-effects of certain monopolistic and oppressive business tactics but this legislation really just addressed a very specific set of activities and served none too well given the economic climate of the time (Mahmood, 2022).

The first significant breakthrough in competition law reform was made when Pakistan commenced its journey towards liberalization in late 1990s and early 2000s, in accordance with a world-wide movement to promote competition in the free market economy for efficiency and economic gain), but apart from an Act of 1970 regulating monopolies and concentration of economic power, the following decades witnessed only an Individual Case-by-Case enforcement approach towards monopolistic/anti-competitive behavior. It was marked by the enactment of the Competition Ordinance in 2007, which was subsequently repealed by the new Competition Act in 2010 (Nasir, 2020). This Act greatly broadened the horizons of competition law in Pakistan and provided for detailed provisions as to what constitutes anti-competitive practices which include both, securing a monopoly and abusing a dominant position and certain mergers and acquisitions that may be detrimental to healthy competition in the market.

- **Role of WARIDCCP (Competition Commission of Pakistan)**

Establishment of Competition Commission of Pakistan (CCP): The Competition Commission of Pakistan (CCP) has been established on 2nd October, 2007 after the promulgation of the Competition Ordinance, issued on October 2, 2007. It was formally established under the Competition Act 2010, that expressly provided for its existence and broadened its mandate (Saleem, 2019). The primary function of CCP is to accomplish and maintain a sustainable competition in all facets of commercial and economic activity to enhance economic efficiency, through the promotion or protection of consumer welfare by controlling anti-competitive conducts which acts as restriction or hindrance to trade and deceptive marketing (Hamid, 2022).

- **The responsibilities of the CCP :**

Ways and Means to achieve the mentioned goals of CCP are the following,

*Enforcement of Competition Laws:* the Commission is mandated with the enforcement of laws and policies on competition so as to deter anti-competitive behavior including cartel agreements (price fixing, market divisions etc.); and abuse of dominance and concentration through Section 30 of the Competition Law. This covers the examination of who is violating the Act and what action is taken against them.



*Review of Mergers and Acquisitions:* One of the main functions of the CCP is to review mergers and acquisitions that are likely to be anti-competitive. This process involves a thorough review to determine that such consolidations do not unduly foreclose, create or enhance market power.

*Advocacy and Awareness:* In addition to its regulatory work, the CCP also carries out competition advocacy to promote voluntary compliance and create awareness about competition laws among businesses and consumers. Organizing Seminars & Workshops & Issuing Advisory / Guidelines on Competition Law Compliance

The CCP has shown commendable progress to implement the completion laws in Pakistan. For example, it has been hard at work in breaking up sugar and cement cartels (core industries for the economy). It has also been one of the lead debtors in some high-publicized cases against the various telecom companies to make sure the interests of the consumer are taken care of and all competition practices are ensured to be fair.

#### 4. KEY LEGISLATIVE TOOLS IN PAKISTAN'S COMPETITION LAW

- **The Competition Act 2010**

The Competition Act 2010 is the principal legislation in Pakistan which aims at promoting fair competition in the market. This act repealed the Competition Ordinance, 2007 and it was introduced with the potential evidence to address the previous lapses and to bring with the changing times of Pakistani economy (Iqbal & Javed, 2020). The Act lays down a legal framework for preventing Anti-competitive practices being pursued by entities tending to have an adverse effect on competition, to promote and sustain fair competition in markets, protect the interests of consumers and ensure freedom of trade in the markets of India. Some of the major changes and their potential impacts include:

*Anti-Dominant Position:* Section 3 of the Act prohibits the abuse of dominance in the market, such as aggressive pricing or limiting the production in order to create an artificial supply and demand cycle, or the imposition of distinctive condition for similar transactions. This provision serves to prevent abridgement of competition by preventing exactly what Apple and Google have allegedly done: practices used by larger, established companies to erect barriers to entry for would-be competitors or to exploit consumer (Malik, 2018).

*Section 4: Prohibition of Certain Agreements:* This section prohibits any agreements which have the purpose or effect of significantly preventing, restricting or lessening competition within Pakistan. That is, any kind of cartelization, like price-fixing, bid-rigging, market sharing, limiting or controlling production/marketing. There the parties to the horizontal and vertical agreements are hit by this law to allow equal opportunities among companies and to maintain competition in the markets also permits competition in the markets to be kept evolving and creative.

*Merger Control and Regulation:* Section 11 makes it obligatory that mergers, acquisitions and certain joint ventures, likely to substantially lessen competition in the relevant market, are to be scrutinized and followed by approval from the Competition Commission of Pakistan (CCP). It restricts economic concentration that might result in monopolistic structures or oligopolies, fostering a competitive market environment that benefits consumer welfare and economic efficiency.

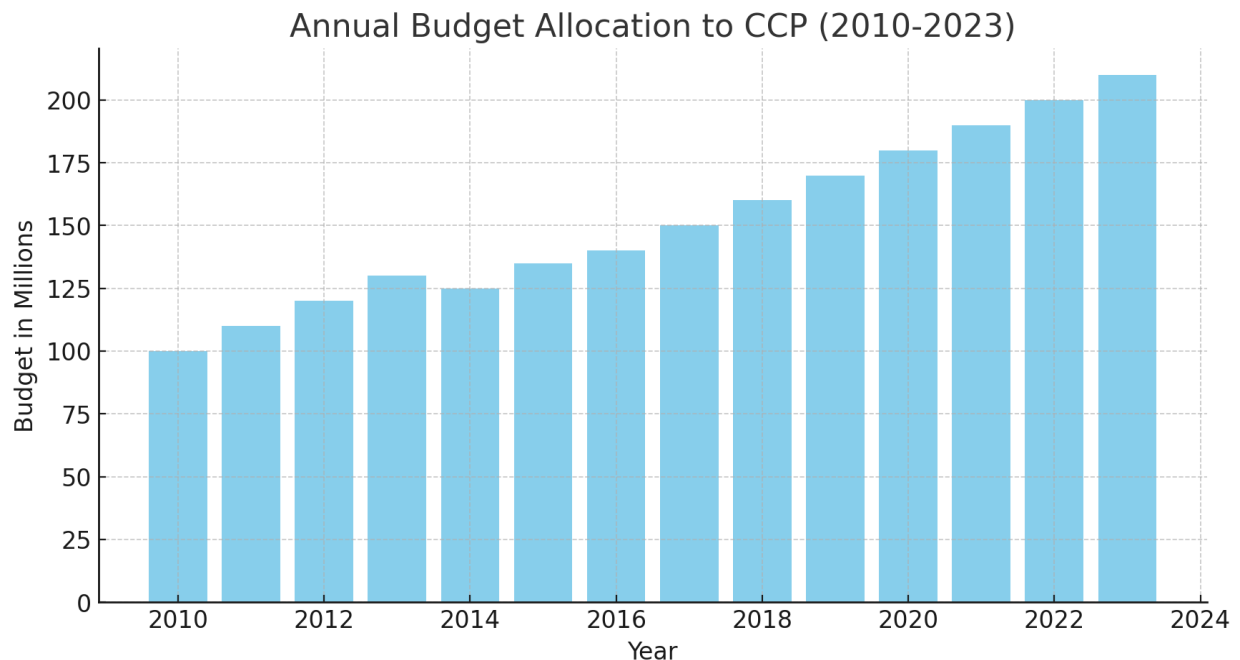
*Marketing contrivance:* under Section 10, it prevents the act of concern advertising, which means that distributing false information resulting harm other, that influence distrusting consumer. This is a section that is thought to be protective of consumer rights and extend an open competition base on the organ of the services, rather than deceptive and unfair business practices.

*Impact on Market Competition*

The Competition Act 2010 aims to provide a level playing field in different types of industries and sectors by controlling conducts that can disturb market dynamics. This holistic treatment of the structural and behavioral dimensions of competition is aimed at preventing unchecked dominance of any single entity in the market, making for a more competitive economy. This benefits consumers with more selection, better service, and lower prices. For businesses, this spells a more even playing field where success is determined by efficiency and innovation, and not through monopolistic, anticompetitive actions.

Thus, besides penalizing and deterring anti-competitive conduct, the Act also exercises a preventive role through merger control. The power of the CCP to validate significant mergers and acquisitions to determine the impact on competition also provides the key to intervene in time, before any damage is done to the market.

## 5. Institutional Barriers to Effective Competition Law Enforcement in Pakistan



**Figure 01: own extract**

There are, however, several institutional challenges that have prevented Pakistan from efficient enforcement of its competition law. These impediments are not only impeding the functioning of the Competition Commission of Pakistan (CCP) but also dilapidating its ability to respond to anti-competitive behavior more effectively. The problems range from resource constraints to a dearth of expertise - some of the most material ones.

### • Resource Constraints

One of the biggest challenges of the CCP is the lack of proper funding where ever greater emphasis is placed on corporate donations. As is true of many regulatory bodies in emerging economies, the China FDA (CFDA) suffers from budgetary constraints that impact all aspects of its functions, including personnel costs and operating costs related to the necessary extensive investigatory activities (Dawood, 2021). That the party often lacks the financial resources to compete for scarce talent (compared with industry) to invest in the technology required to conduct investigations or to carry out the market analysis required to operate in a sound and informed manner.

**Manpower Shortages:** Manpower shortages is another issue, as shortages are closely connected to funding issues, The CCP itself - which is responsible for overseeing a broad range of industries across a sprawling economy - is often short-staffed. The lack of staff has left the commission thinly stretched, either with dealing with the routine surveillance tasks they are entrusted with, or the more complex judicial investigations and legal processing that are often associated with this role. Such delays not only impede the enforcement process, but may also undercut the effectiveness of sanctions and remedies that rely on timely action (Khan, 2021).

**Resource Constraints and impact:** The dual influence of financial and human capital deprivations has dramatically hindered the CCP's capacity in implementing competition laws (Raza, 2021). Stripped of essential resources, the Commission is less able to act quickly and effectively to stop anti-competitive



behavior when detected, potentially fomenting a culture of impunity among those businesses that know that the institution lacks the means.

- **Lack of Expertise**

This is because competition law, like most forms of regulation, is an intensely specialized subject requiring a sophisticated grasp of legal and economic principles. Pakistan is especially experiencing a crunch in this skill area which is hybrid in nature. This is in part due to a paucity of advanced program for the teaching competition law and economics nationally, and the constraint of professional training and development opportunities within this specialized area.

**Hiring Challenges:** There are also few individuals in the CCP that have the needed skills, and they are hard to recruit and retain (Ghani & Rahman, 2018). Competition from the private sector, where pay often tops what state employers can offer and career prospects are brighter, can make it hard for the Communist Party to get the best and the brightest. Individual agencies must have expertise, particularly in a field like competition law (where expertise lies at the heart of the quality of enforcement actions and of the ability to withstand legal scrutiny and cascades of appeals in courts. How the natural resource expertise missing The shortage of the CCP's operational efficiency in the expert manpower required for its work, in a number of areas. Secondly, it hinders the power of the CCP to present strong cases against offenders, especially if those offenders are opposed by legal teams funded by large corporate entities. Finally, the lack of qualified personnel threatens to undermine the credibility and enforceability of the CPL, since decisions may not be taken to the stringent economic and legal scrutiny that is so essential in the field of competition law (Hasan & Qureshi, 2019).

### **3. Inadequate Enforcement Powers of the Competition Commission of Pakistan (CCP)**

In the end, the performance of any regulator e.g. competition regulator like Competition Commission of Pakistan (CCP) does not only rely on the human and financial resources and expertise but fundamentally depends upon the sufficient enforcement powers mandated in the statute governing the regulator (Aslam, 2019). While the Competition Act 2010 has provided the CCP with the overarching law it needed to act upon, there are few instances where the enforcement powers may not be sufficient to induce full compliance among businesses.

### **4. Scope of Enforcement Powers**

Under the Competition Act 2010, the CCP is vested with several enforcement powers that include the power to conduct an inquiry into an anti-competitive activity, levy penalties for contraventions and review mergers and acquisitions that could potentially reduce competition (Batoool, 2020). These are the powers that are aimed at preventing breaches and establishing a level playing field in the competitive market. But in the world of applications, these powers have drawbacks when we apply them:

1. **Limitations on Investigations** As noted earlier, the CCP may commence investigations and request information from businesses, but its ability to actually enforce these demands can be constrained. California consumers must invoke these rights by sending a request to a business, which can choose to delay or even refuse to provide the data, at which point the CCP would take the next steps to compel compliance, which can be long and drawn-out, involving judicial processes.

2. **private rights of action:** Competition laws energy the FTC and US DOC have the power to fantastic companies that contravene the competition laws. Transitions: The MPA does no longer authorize States to sue under the private enforcement for the non-public proper of movement, however the MPA offers that States may also preserve enforcement of claims which have now not been settled, abused, or disclosed by personal movement. Fines can be difficult to collect, however. Business regularly challenge CCP decisions in the court and these appeals often take years to resolve. In this window, not only does the imposition of penalties face delays but also it makes it difficult for such penalties to be effective as they become less of a deterrent.

3. **Common welfare remedy:** Challenge for the CCP ability to enforce common welfare remedy in terms of conducting potential behavioral remedies or devastation of anti-competitive merged firms. These steps not only call for detection and prosecution of anti-competitive activities but also

seek to keep a check on the compliance, which is prohibitive in terms of resource and this further makes it difficult under the present scheme of things.

## 6. Challenges in Enforcement

Major Barriers to Competition Law Enforcement

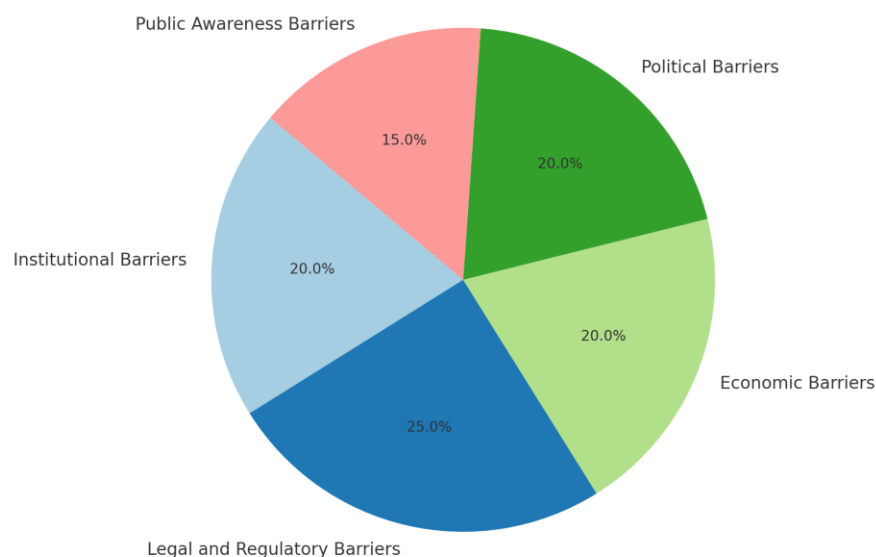


Figure 02: own extract

There are also other forces undermining the efficacy of the CCP's enforcement powers:

1. **Legal and Procedural Hurdles:** The decisions of the CCP are reviewable by courts and the courts may not always agree that the competition law applies to the facts of the case being decided upon. The litigation, in addition to prolonged realization of competition law, can cause disparities in the application of the law.
2. **Political and Economic:** Enforcement actions have the potential to be especially difficult to bring, e.g. against large or politically connected firms. Such firms can have critical leverage that can lead to cases such as reluctance to execute a CCP investigation or an unwillingness to comply with CCP orders.
3. **Public and Corporate Awareness:** Furthermore, public and even more so corporate consciousness of competition law is in some measure deficient and consequently lack of awareness will compound the enforcement as businesses are not even aware of the extent of their behavior and the public will not give the CCP the requisite mandate to apply the penalties.

## 5. Enhancing Enforcement Powers

To remedy these shortcomings, the following procedures might be useful:

1. **Simplify Legal Mechanisms:** Expand the CCP's power to levy and enforce penalties without prolonged litigation. This may include legislative changes empowering the CCP to be more self-enforcing.
2. **Enhancing Investigative Capacity:** The CCP should be afforded legal authority to make unannounced inspections and audits, which constitute the most direct manner in which to oversee and collect evidence.
3. **Educational Initiatives:** Ramp up efforts to educate both the business community and the public on competition laws so that businesses are more compliant and the public is more supportive of RRACCT actions.

In sum, despite having an initial form of enforcement powers, the CCP needs to be empowered considerably to tackle the real issues and regulate and retain a competitive market in Pakistan. After all, the CCP will better limit anti-competitive practices and broaden a fair economic place when enabled using wider powers, direction, and scientific system.



## **6. Legal and Regulatory Barriers to Competition Law Enforcement in Pakistan**

Constraints on effective enforcement of competition law in Pakistan stem not just from institutional and resource-related issues but also from legal and regulatory impediments of considerable magnitude. In practice, these barriers may take the form of legal ambivalences, judicial delay or government intervention in the operation of the legal system, all of which provide a wider view on how the legal system, as a framework of fair competition, is being undermined.

## **7. AMBIGUITIES IN LAW**

Comprehensive in many respects, the Competition Act of 2010 includes ambiguities and loop holes making its enforcement difficult.

1. Indeterminate Definitions: Some of the terms and provisions of the Competition act are not elaborately defined and hence gets interpretations differently. To take one example, the terms "undue constraint" or "dominant market power" are broad and subject to vague definitional standards that may call for a relatively arbitrary application of the law.

2. Concurrent Jurisdiction: The Competition Act interacts with other legislative regimes, e.g. with those governing telecommunications or securities markets. This overlap leads to jurisdictional conflicts between the CCP and other regulatory bodies, and confusion regarding the respective mandate of each agency to deal with the specific case.

3. Exemptions / Exceptions: The Act has a number of exemptions prevalent for government owned enterprises and some types of commercial agreements which could be construed as a means for anti-competitive practices to subsist in certain conditions. These exemptions, in turn, can undermine the general deterrent of competition law by generating 'enforcement gaps'

These ambiguities do not only obfuscate the power of the CCP but also casts a shadow on the predictability and credibility of competition law enforcement in Pakistan..

## **8. JUDICIAL DELAYS**

As assessors and enforcers of competition rights, antitrust laws are largely supervised by the judiciary, since several CCP's order can be an issue of a judicial review. Recently longer delays in the judicial process can impact the timely resolution of cases under competition law to large extent:

1. Court System: Pakistan is infamous for its overburdened court system, making legal proceedings a process spanning over years (Siddique, 2018). The trials can become protracted legal proceedings, slowed by the need for voluminous, detailed economic analysis and expert testimony in competition law cases.

2. Effect Of Delay In Justice Delivery On Enforcement: The effectiveness of any penalties and corrective measures of the CCC, may be some times rendered otiose. The immediate effects of enforcement actions, including deterrent effects, are lost when cases take years to complete, and the regulated companies are able to continue unchallenged with their anti-competitive conduct for the intervening years.

3. Lower Compliance: Long drawn-out judicial processes can create an environment where employers are discouraged to follow suit and ignore most of the initial rulings given by the CCP knowing that they can drag the case through further courts and more legal proceedings.

## **9. Impedance with a Law Enforcement Bushiness**

Political pressure and lobbying, for example, are potent external factors for the impartial and effective enforcement of competition law:

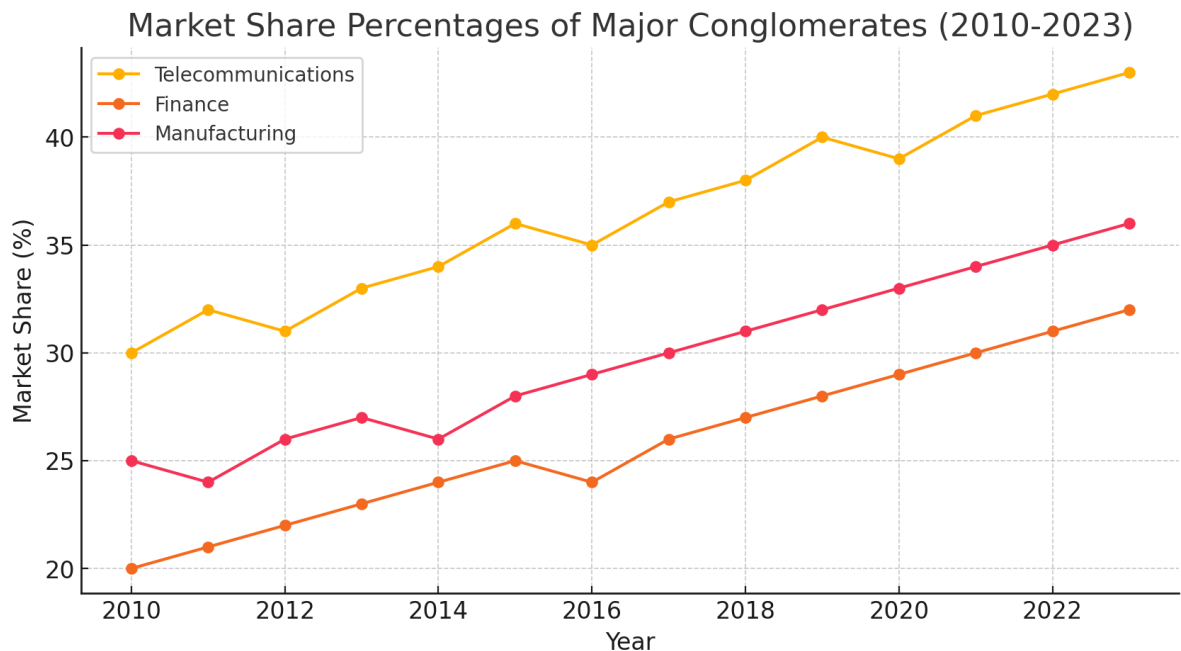
1. Political Pressure: The decisions made by the CCP, particularly about certain large or politically connected firms can get a large amount of political attention. They might pressure the CCP to refrain from taking actions that could upset major campaign donors or entice the CCP to shield local businesses from competition.

2. The Influence of Big Money Interests - many large corporations and industry groups have such deep pockets that they are able to pour millions of dollars into lobbying. These efforts might be focused on competition policy and enforcement actions, particularly in sectors whose product markets are dominated by a handful of major players.



3. This diverts power from the CCP, reduced its authority in the economy and coherently, decisions are based on other interests instead of both competition and consumer welfare.

## 7. Economic and Political Barriers to Competition Law Enforcement in Pakistan



**Figure 03: own extract**

Efficient implementation of competition law in Pakistan faces daunting legal and regulatory challenges, as well as formidable economics and political challenges. These obstacles include the strangleholds exerted by big companies or conglomerates, political power and corruption, and how much people actually know and care about competition laws.

It reflects the large entities that dominate the market. Pakistani market is characterized by the presence of a handful of few giant entities which are often family-owned having a presence in a wide range of economic sectors. This prima facie monopolization of the market exhibits its unique set of problems:

1. **Barrier to Entry:** Big companies are major barrier to entry because enormous market share makes it near difficult for new entrants to compete. These entities are able to engage in competitive pricing, exclusivity and other anticompetitive behavior, because the sheer virtue of the size and resources of these entities prohibits others from competing.
2. **Supply Chains:** Entry barriers could involve domination of a supply chain that is fundamental to the product, thus controlling the availability of the product to competitors, or that the supply chain power is used to impose unfair conditions that are to the detriment of smaller businesses.
3. **Dependence Economies:** Whole sectors - and so the very jobs within them - may depend on one or a few large firms, making enforcement very complex because of the repercussions of taking action against these firms.

Hence the strong grasp on and manipulation of markets from these quarters by the Competition Commission of Pakistan (CCP) is burdensome and a ticket to get burnt amidst market and even politico-market retaliations.

## 8. POLITICAL INFLUENCE AND CORRUPTION

One of the major impediments, in Pakistan, is the enormous level of political influence and corruption in the enforcement of competition laws

1. **Political Patronage:-** The majority of big corporations in Pakistan function with the patronage of political parties. Even that these entire corporations may be failed but politicians have personal,

familial or economic interests for few major of these successful corporations. That can put a lot of pressure on a regulatory body such as the CCP not to enforce violations against these entities.

2. **Corruption In The Enforcement Process:** Entrance of corruption at several stages of the enforcement process. For instance, they may use bribery to exempt them from an investigation or other action being taken by an official on another firm. The integrity of competition law enforcement is compromised, and public trust in the regulatory framework is eroded.

3. **Political Impact:** In the past, corporations with deep pockets would often lobby to push back anything they viewed as regulatory measures that hindered their own control. This lobbying can, in turn, lead to legislation that helps big biz at the expense of an open market.

Given the mix between economic interests and political power is deep, it is difficult to enforce competition laws in Pakistan fairly and sufficiently.

## 9. PUBLIC AWARENESS AND SUPPORT

Enforcement of competition law requires public awareness and support which often is not there due to several reasons in Pakistan:-

1. **Public Understanding:** In the Pakistan, the public is generally unaware of the concepts of competition law and consumer rights. Failure to bring not to light such practices, can, in turn, bring consumer apathy about how the business game is played.

2. **Media Influence:** The media is a significant source of educating and informing the masses about the issues concerning competition law. But also, if the media is somewhat controlled in the whole by the same big entities shares the market, which might make they reduce it or make the coverage parties biased and insufficient to bring that to the general public to gain proper support and knowledge to take action.

3. **Public Pressure:** When the public demands support, enforcement of laws may also be intensified. Left to their own devices, regulators may simply lack the public momentum necessary to take on well-entrenched market players.

4.

## 10. COMPARATIVE ANALYSIS: LESSONS FROM OTHER COUNTRIES AND BEST PRACTICES FOR COMPETITION LAW ENFORCEMENT

Country	Key Practices	Enforcement Agencies	Major Challenges	Notable Successes
Pakistan	Enforcement	CCP	Political Influence	Breaking up cartels
India	Cartel Management	CCI	Jurisdiction Conflicts	Clear Jurisdictions
South Africa	Competition Tribunals	Competition Tribunal	Market Dominance	Heavy Penalties
Brazil	Transparency	CADE	Bribery	Public Hearings
Chile	Lean Budget Management	National Economic Prosecutors	Limited Resources	Efficient Results

**Figure 04: own extract**

Pakistan, like other developing countries at one point or the other, has had its fair share of struggles in the enforcement of competition law. Some countries struggled but managed well out of this situation - thanks to their innovative approaches and sound policy frameworks (Shah, 2021). In this comparative analysis, we are looking at what these countries learned from the experiences and what are the best practices that can be implemented in Pakistan.

## 11. Lessons from Other Countries



1. India: India has come a long way in dealing with cartels through its competition law framework being enforced by the CCI. India has appropriately managed sectoral regulators and the CCI overlaps by having clear distinctions of jurisdictions and mutual cooperation protocols. Such a model could also solve Pakistan's existing problems of jurisdiction between the CCP and other regulatory bodies.

2. South Africa : The market dominance of large entities has been addressed to areas like competition tribunals in markets, which is a body specifically created to handle sophisticated anti-competition cases, including those involving large corporations. In competition law, South Africa would be a good model for Pakistan to emulate, given the blatant way in which the competition is distorted through. South Africa imposes heavy penalties, even breaking up entities, that do not abide by rules, so Pakistani competition policy, particularly w of conglomerates, should also be as robust.

3. Brazil: As illustrated by the publication of important Case Clearance Memoranda, Brazil has identified a reasonably high level of transparency and public partaking within their decision making to prevent bribery and political harassment to enter the enforcement of competition law. The Brazilian Administrative Council for Economic Defense (CADE) also has a practice of providing public hearings and open sessions which increases public understanding and support (increases public legitimacy and effectiveness as well).

4. Chile: Chile's National Economic Prosecutor's Office international recognition for achieving results on a lean budget. It will schedule cases on the basis of broader policy goals, i.e., the likely impact of a case on the national economy and consumer welfare - a model that may help Pakistan because of its limited resources.

- **Best Practices to Adapt for Pakistan**

1. India example: Inspired by India, Pakistan would do well to additionally define clear jurisdictionally lines and a strong process of interaction between the CCP and other regulatory authorities. It would reduce conflicts and streamline enforcement among sectors.

2. Establishment of Specialized Tribunals: Competitions matters are filed in regular court at the moment, but Pakistan can follow the example of South Africa and establish specialized tribunals to deal with complex cases of competition, especially those concerning big corporations. Hearings would take place before these tribunals, which would be assigned experts in competition law and economics so that matters would be resolved in a speedy and capable manner.

3. Increased Transparency and Public Engagement: Pakistan should follow the example of Brazil to make the operations and decisions of the CCP more transparent. Holding public hearings and conveying its decision-making process will increase the trust of the people and their opinion of CCP actions.

4. Prioritizing Businesses: Taking a cue from Chile, the CCP can also identify a systematic approach to prioritize businesses that can commit sects after comparing the harm of the violation (Anti-competitive conduct) and the association of a break on competition. This approach guarantees that the implicit resources are targeted somewhere where they are disproportionately likely to have a big impact.

5. Capacity Building and Training: Ongoing trainings and capacity building programs for the CCP personnel can bridge the skills gap. Establishing international partnerships and exchange programs involving more seasoned competition authorities may help in developing local expertise.

6. Anti-Corruption Measures: Strong anti-corruption measures to protect the CCP from grow beyond its original purpose. Those might be really detailed conflict-of-interest rules, having some independent review board, having some tip line to which you can report corruption and interference without your name attached to it.

## 12. RECOMMENDATIONS FOR ENHANCING COMPETITIVE LAW ENFORCEMENT IN PAKISTAN

Strategically improving institutional capacity, the legal framework and regulatory environment, and measures to promote transparency and reduce political interference could profoundly improve the enforcement of competition law in Pakistan. This part contains concrete proposals to remove the barriers faced by the Competition Commission of Pakistan (CCP) today.



- **Strengthening Institutional Capacities**

1. **Enhanced Funding** - The government must allot appropriate funds to the CCP through a budget so that the CCP could carry out its responsibilities effectively and efficiently. Further funding would go to more staff and the purchasing of state-of-the-art technology to carry out effective oversight of the marketplace and market analysis.
2. **Grow HR:** The CCP must grow its competition law and economic expertise by hiring more manpower for the job. One approach to this is simply offering them more - better salaries, benefits, an environment where they can grow and develop professionally.
3. **Improve Training Programs:** Develop continuous training programs for, respective to the jurisdiction, CCP staff to keep them up-to-date with international, best competition laws enforcement practices. Training in best practice can also be provided through collaboration with international competition bodies through workshops, seminars, and exchange programs.
4. **Technological Skills Enhancement:** Improve technological capabilities and procure the newest technologies for investigation and analysis. It features software for data analysis, online monitoring tools, and secure communication platforms to support the operations of the CCP.

- **Legal and Regulatory Reforms**

1. **Specific Amendment Clauses in the Competition Act for Ambiguous Terms-** In the Competition Act ambiguity lies and by amending the coincident terms, the rooms for the inconsistency and misinterpretation for the enforcement agencies could be decreased. This will also include a detailed explanation of things like anti-competitive agreements, abuse of dominance, and merger control, etc.
2. **Ensure the penalties:** It is necessary to make sure that there is a robust penal provision under the competition act which can penalize those violation the provision and to the level to which it can act deterrent to the anticompetitive behavior.
3. **Streamline the Prosecution of Competition Law Cases:** Simplify the legal processes connected to the prosecution of competition law cases, thereby lowering the delays. This could mean having clear judicial review deadlines and developing separate courts for competition issues.
4. **Set jurisdictional boundaries of the CCP:** Develop clear criteria as to which sectors fall under the CCPs purview to minimize overlaps with other regulatory authorities and enhance more coordinated regulatory action

- **Improve Transparency and Minimize Political Intervention**

1. **Mandate the CCP to publicly report the results of its investigations and decisions.** The statement of reasons for the decision, noting the fines and actions that companies are to take to comply.
2. **Media Campaigns:** Conduct a vast number of campaigns to raise awareness amongst consumers and businesses about the competition law, and the role of the CCP. Better public support for enforcement actions and decreasing adverse perceptions depend principally on the public better understanding the benefits of competition law.
3. **Establish a New Oversight:** Create an independent oversight mechanism to review CCP decisions and to ensure that its actions are not subject to political interference. It will also be responsible for complaints against the CCP & ensuring accountability.
4. **Anti-Corruption Measures:** Carbon strain anti-corruption measures into the CCP through robust internal controls, a comprehensive audit system, and a provision for anonymous whistleblowing.
5. **Lobbying Laws** - Introduce Stringent Laws that will Induce The Lobbyist to File Disclosures but Most Importantly Ensure all the potential attempts to cease the CCP of some Officials should not be available but made stricter. It will allow us to oversee and govern the extent to which powerful business interests hold sway over regulatory administration.

### 13. CONCLUSION

The study has investigated the various dimensions of the problems that plague efficient enforcement of competition law in Pakistan, and has found significant institutional, legal, regulatory, economic

and political obstacles. It has further shared a list of focused recommendations to address these challenges and improve the performance of the Competition Commission of Pakistan (CCP). The combination of recommendations could be instrumental in reshaping the landscape of competition law enforcement in Pakistan. Providing greater legal certainty and supporting the CCP both in terms of resources and independence will assist in ensuring the enforcement of competition law is more consistent, predictable and effective. The greater transparency ensured by better public awareness might help to generate more trust and support from the citizens, paving the way for fair competition to be carried out in a more conducive setting. It would not only protect consumer interests and create a level-playing field in trade but also help nurture economic growth in the country. It also would prevent political meddling and make the enforcement as much as possible a legal case by case-based decision, thus leading to a more stable commercial landscape.

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