AT THE CROSSROADS: PAKISTAN'S TRANSITION FROM ANTI-MONOPOLY LAW TO COMPETITION LAW

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ADOPTION OF COMPETITION LAW

- Background
- Pakistan had its first piece of competition legislation in the form of Monopolies and Restrictive Trade Practices Ordinance of 1970.
- The circumstances leading to its legislation prompted the drafters to have diffusion of economic power as the primary purpose of the Ordinance
- The offences under the MRTPO were:
  (i) undue concentration of economic power;
  (ii) growth of unreasonable monopoly power; and
  (iii) unreasonably restrictive trade practices.
  - Absence of mandatory merger clearance regime
- Monopoly Control Authority
  - Composed of three members – govt. employees.

SECTION 25 MRTPO -EXEMPTIONS

- Section 25 exempts certain undertakings and activities from the application of the MRTPO, such as:
  - i. an undertaking owned by a federal or provincial government;
  - ii. an undertaking owned by a corporate body established by government or whose Chief Executive is appointed by or with the approval of the federal or provincial government;
  - iii. anything done by a person or an undertaking in pursuance of any order by the federal or provincial government;
  - iv. anything done by a "trade union" or its members for carrying out its purpose;
  - v. activities of certain industries which are regulated by industry specific regulators.

TRANSITION TO MODERN COMPETITION LAW

- Pakistan adopted a modern Competition Law ion 2nd October, 2007 in the form of Competition Ordinance, 2007.
- Ordinance is a temporary piece of legislation, with a life of 120 days - per article 89 of the Constitution of Pakistan.
- A state of emergency was declared by President Pervez Musharraf on 3 November 2007, and lasted until 15 December 2007
  - 5. (1) Any ordinance promulgated by the President or by the governor of a province shall not be subject to any limitations as to duration prescribed in the Constitution. Provisional Constitutional Order 2007

HISTORY OF TEMPORARY LEGISLATIONS BEFORE PERMANENT ACT

	Competition Ordinance, 2007	Competition Ordinance, 2009	Competition Ordinance, 2010	Competition Act, 2010
Date promulgated/ enacted	02 October2007	26-November-2009	18-April-2010	13-October-2010
Valid Till	31 November 2009	26 March 2010	16 August 2010	Indefinite
Gap	--	None	24 days	51 days

COMPETITION ACT 2010

- The Competition Act was enacted with the following objectives :
  - (i) to ensure free competition in all spheres of commercial and economic activity;
  - (ii) to enhance economic efficiency; and
  - (iii) to protect consumers from anticompetitive behavior

  The Act applies to all undertakings whether governmental or private, and to all actions or matters which may have the effect of distorting competition within Pakistan

COMPETITION ACT 2010

- Legislation based on modern competition law principles
  - § 3: Abuse of dominant position
  - § 4: Prohibited Agreements
  - § 10: Deceptive Marketing
  - § 11: Merger Control
    - Notification thresholds based on the
      - Size of parties
      - Size of transaction
- A combination of Competition and Consumer Protection legislation

COMMISSION @ 10 : CHANGING COLORS!

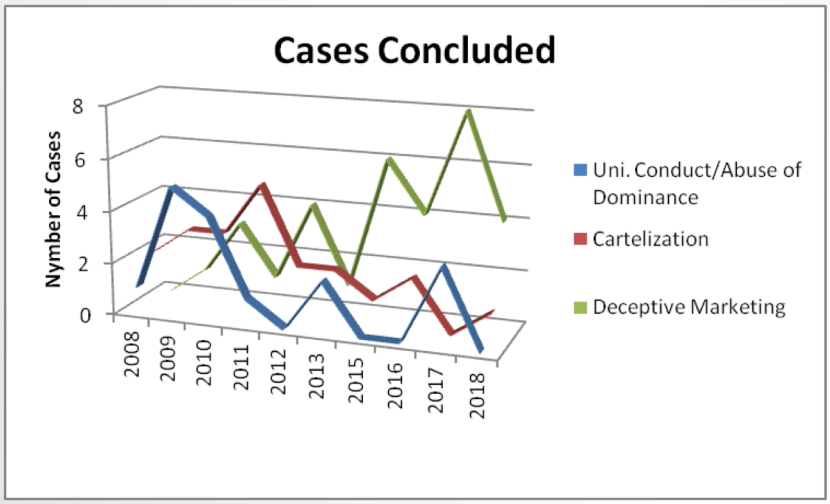
Enforcement Record

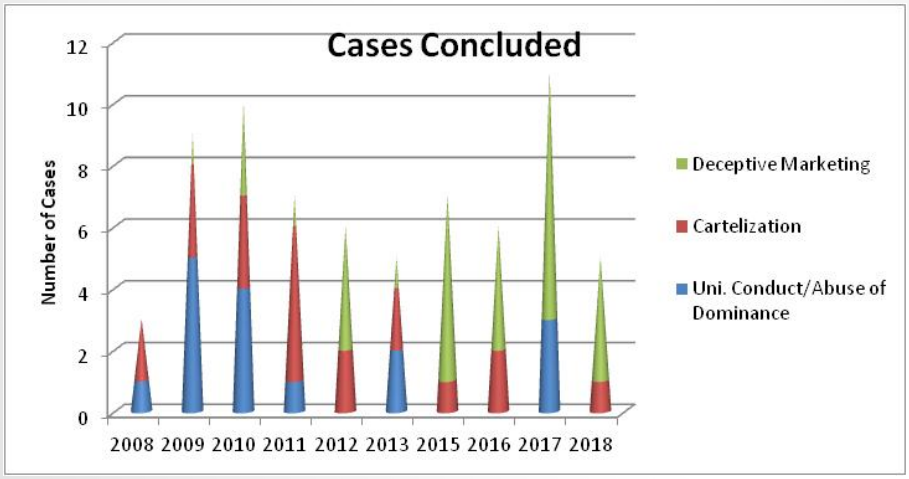
No. of Cases Concluded since its inception:

Section 3 – Abuse of Dominance : 16

Section 4 – Prohibited Agreements: 21

Section 10 – Deceptive Marketing Practices: 32


Cases Concluded
Nymber of Cases
8
6
4
2
0
2008
2009
2010
2011
2012
2013
2015
2016
2017
2018
Uni. Conduct/Abuse of Dominance
Cartelization
Deceptive Marketing


Cases Concluded
Number of Cases
12
10
8
6
4
2
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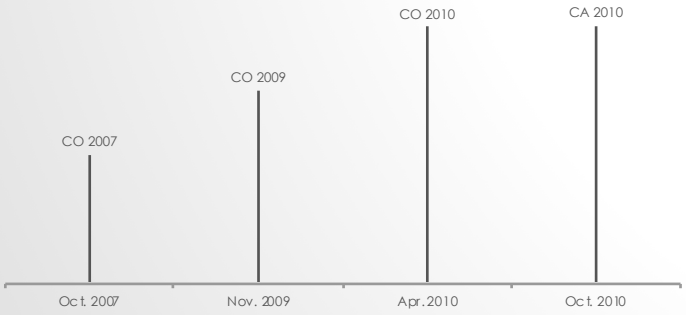
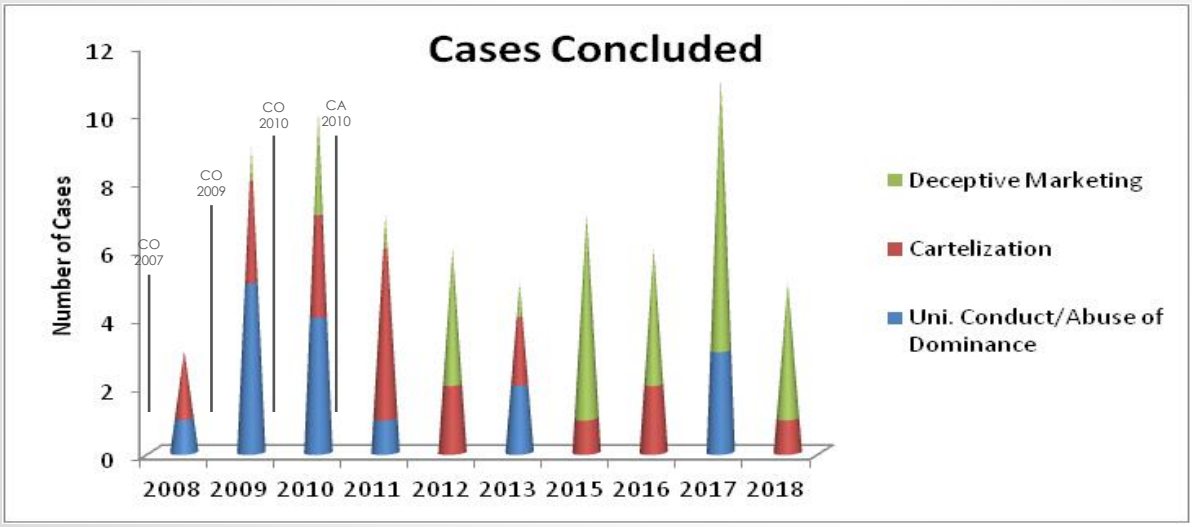
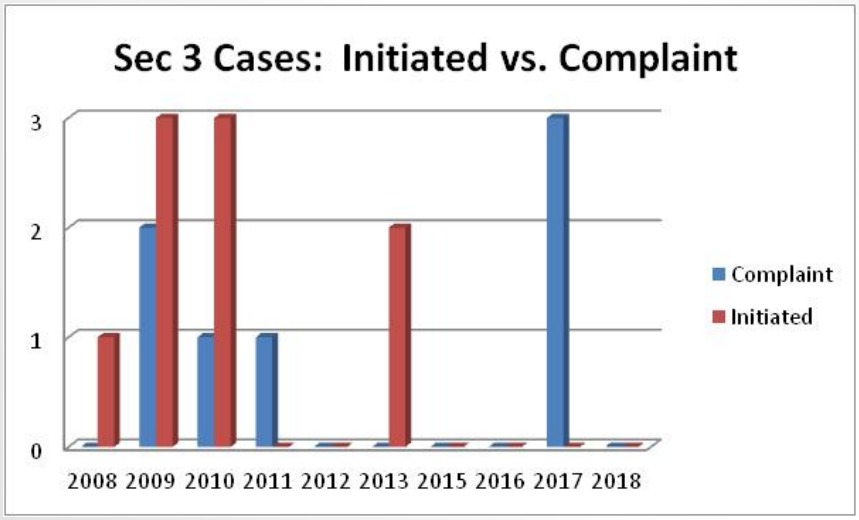
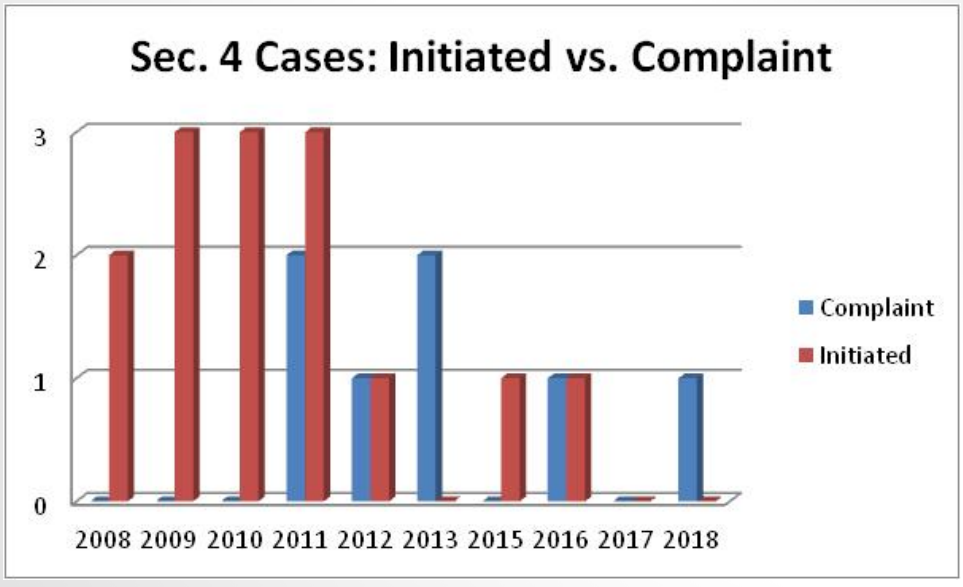
2008 2009 2010 2011 2012 2013 2015 2016 2017 2018
Deceptive Marketing
Cartelization
Uni. Conduct/Abuse of Dominance

TIME LINE OF COMPETITION LAWS






Sec 3 Cases: Initiated vs. Complaint
3
2
1
0
2008 2009 2010 2011 2012 2013 2015 2016 2017 2018
Complaint
Initiated


Sec. 4 Cases: Initiated vs. Complaint
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2
1
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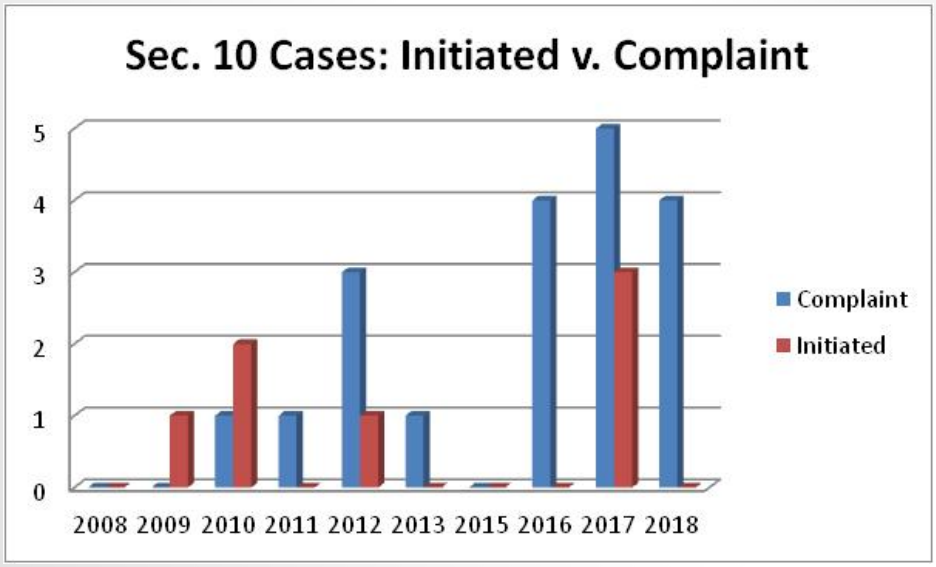
2008 2009 2010 2011 2012 2013 2015 2016 2017 2018
Complaint
Initiated


Sec. 10 Cases: Initiated v. Complaint
5
4
3
2
1
0
2008 2009 2010 2011 2012 2013 2015 2016 2017 2018
Complaint
Initiated

ANTI-COMPETITIVE PRACTICES
A Decade of consumer protection
Competition Law
2007 - 2017
and the journey goes on
Protecting consumers from
Abuse of dominant position
Prohibited agreements
Deceptive marketing practices
Anti-Competitive mergers
CCP is not only a market regulator but also a market developer and remains committed to Pakistan's economic growth through robust competition and fair business practices.
3 Star Rating Agency
by Global Competition Review
Countries with the same rating:
Austria
New Zealand
Switzerland
Singapore
Mexico
Poland
Sweden
Turkey

CONCLUDING REMARKS

- Time for the Commission to engage in self-assessment, and correct its priorities and become a "Competition Agency" and not just a Consumer Protection Agency