



Competition Leniency Regulations 2019: A Comprehensive Review

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Abstract:

The primary goal of the leniency program is to penetrate the veil of secrecy upheld by cartels, thereby dismantling such illicit activities and putting an end to violations of the law. The Competition Commission of Pakistan offers full immunity, reduction of fines, and leniency plus depending on the case. The developed competition jurisdiction such as the European Union leniency program is very successful and most cartel cases are initiated by leniency applications. The leniency program of Pakistan is not effective enough to generate desirable results. The current situation of Pakistan's leniency regime reflects that the level and the type of the existing penalties may not be enough to encourage cartel participants to secure the benefits of leniency. The leniency program of Pakistan, if it is to succeed, should assist the Competition Commission of Pakistan in considerably shortening cartel proceedings as leniency programs do in all successful jurisdictions, since leniency applicants will provide the necessary evidence. It would ultimately ensure that the Competition Commission of Pakistan optimally uses the information received through leniency. This is considered to be the most desirable outcome.

Keywords: leniency regulations, cartels, consumer welfare, Pakistan's competition regime, full immunity, reduction of fines, leniency plus

INTRODUCTION

As mentioned elsewhere, (Fatima, 2012:672-673) Competition Act 2010 (CA, 2010: § 58, read with § 39) permits the Competition Commission of Pakistan (CCP) to adopt regulations necessary to attain the objectives of CA 2010. The CCP is the competent authority that "negotiates leniency agreements."

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In 2007, the CCP introduced the first leniency regulations (Leniency regulations, 2007) that were amended in 2008 (Leniency regulations, 2008), 2009 (Leniency regulations, 2009), 2012 (Leniency regulations, 2012), and 2013 (Leniency Regulations, 2013). In 2019, the CCP adopted new Leniency Regulations (Competition (Leniency) Regulations 2019 (Leniency Regulations 2019), repealing the 2013 Leniency Regulations to improve the enforcement of competition law and regulations adopted herewith, keeping into consideration the experience, and bringing them into conformity to the modern advancements and the competitive commercial environment. Leniency Regulations 2019 are almost similar to Leniency Regulations 2013 in their scope and application (Leniency Regulations, 2019).

Leniency Regulations 2019 are wide in scope and applicable to any undertaking that infringes or is alleged to violate the provision of Section 4 CA 2010. (Leniency Regulations, 2019: Regulation 1(3)) The term 'prohibited activity' is defined by Leniency Regulations 2019 as any activity of an undertaking that is prohibited under Section 4 of CA 2010 (Leniency Regulations, 2019: Regulation 2(h)).

The primary goal of the leniency program is to penetrate the veil of secrecy upheld by cartels (Cartels are formal/informal agreements among competing undertakings within a relevant market to coordinate their actions, often in a manner that reduces or eliminates competition), thereby dismantling such illicit activities and putting an end to violations of the law. A leniency program is "time-effective" because the investigation and prosecution of cartels is generally a "long-term exercise" and through leniency loss of consumer welfare can be reduced. The article intends to address the following questions: Whether revising the leniency regulations is necessary at this stage. What are the significant changes in Leniency Regulations 2019 as compared to previous regulations? Whether the amended leniency regulations will achieve the desired success. This article intends to review the existing model of leniency regulations adopted by Pakistan's competition regime and compare them with previous regulations and the European Union leniency program, where necessary. An impact analysis of Leniency Regulations 2019 is also desired to be undertaken.

IMPROVEMENTS IN LENIENCY REGULATION 2019

Types of Leniency

In Leniency Regulations 2019, the CCP may offer full immunity, the reduction from fines as well as leniency plus depending on the case. (Leniency Regulations, 2019: Regulations 3, 4, and 5) CA 2010 only stipulates 'granting of lesser penalty or immunity'. Leniency Plus was not offered under any other previous regulations.

Full Immunity

The eligibility criteria for full immunity under Leniency Regulations 2019 are similar to the requirements mentioned in Leniency Regulation 2013. The eligibility criteria for full immunity are laid out in Regulation 3 of the Leniency Regulations 2019. As mentioned elsewhere, (Fatima, 2012:676) This Regulation is designed to operate as an "effective tool of investigation". It is a useful way of collecting evidence swiftly and "at a lower cost" by offering incentives to cartel participants which in return assist the competition authorities to uncover the cartel arrangements "by

admission and implicating co-conspirators". (Siemens Engineering Company Ltd Leniency Order, 2012:25) The CCP may grant full immunity from fines to the first undertaking that comes forward with sufficient evidence of an undetected cartel activity, which enables the CCP to conduct an investigation and prove the violation. (Leniency Regulations, 2019: Regulation 3(1)(a)) The entitlement for leniency under Regulation 3 of Leniency Regulations 2019 is dependent on whether or not the CCP has sufficient evidence to initiate an investigation and prove the existence of an infringement.

According to Leniency Regulations 2013, the undertakings were required to provide all evidence including relevant documents and significant information regarding the alleged violation to the CCP. They were compelled to maintain "continuous and complete cooperation" throughout the investigative procedure concerning the suspected cartel. Furthermore, the undertakings, since their disclosure, were bound to abandon their further involvement in the suspected activity. The CCP was authorized to determine rules in this regard on a case-to-case basis. The undertakings could only benefit from leniency (subject to fulfillment of other conditions) if they could substantiate their claims of not applying coercion on another undertaking to take part in any of the prohibited activities under CA 2010. (Leniency Regulations, 2013: Regulation 3(1)(ii)) Leniency Regulations 2019 maintains these basic requirements of Leniency Regulation 2013 but enhances a few other conditions which must be satisfied to qualify for full immunity. It states that an undertaking is further required: to provide all the available evidence regarding the alleged infringement well-timed to the CCP, not to cover up, damage, manipulate and eradicate any evidence that may be essential for the investigation, to assist the CCP in conducting interviews with all persons associated with the participants of the alleged infringement by making them available. (Leniency Regulations, 2019: Regulation 3(1)(b))

Introduction of Marker System

Leniency Regulation 2019, has introduced a formal requirement to make a leniency application. It has introduced a 'marker system' for full immunity applicants under which an immunity applicant can assure his place in the queue without offering all evidence initially. It was previously suggested by the author that the CCP must introduce a marker system. It was further suggested that the marker system should equally be available for full immunity and reduction of fine applicants. (Fatima, 2012:690) Regulation 6(A) of Leniency Regulation 2019 stipulates the details of how immunity applicants can secure their place in a queue. It discusses the eligibility criteria for a potential applicant to secure a marker and the obligations of an applicant when a marker is granted.

Analyzing previous Leniency Regulations highlight that Leniency Regulations 2007 used the term "*status of priority*", but not only failed to explain the method of granting such status to any applicant but also failed to mention the eligibility criteria for an applicant to secure such status and obligations of an applicant where it was to be granted. Later, Leniency Regulations 2013 did not provide any stipulation on granting a "*status of priority*".

According to Regulation 6(A) of Leniency Regulations 2019, an application for the marker, through an authorized representative, is the first step for an undertaking interested to apply for full immunity under Regulation 3 of Leniency Regulations 2019. In this manner, the undertaking reserves its place in the queue to gather the necessary evidence for submission before the CCP

within the specified time as determined by the CCP to perfect the marker granted. During the process, the CCP does not consider other marker applications for “full immunity.”

Rejection of Immunity to First Marker Holder

When the application for full Immunity of the first marker holder is rejected, the next undertaking ascends the queue, and the procedure prescribed by Regulation 6(A) of Leniency Regulation 2019 applies (Leniency Regulations, 2019: Regulation 6(A)(6)).

Reduction of Fines

When an undertaking fails to qualify to obtain full immunity under Leniency Regulations 2019, it may still apply for a “reduction” of the financial penalty. The eligibility criteria for the reduction of fines are mentioned in Regulation 4 of the Leniency Regulations 2019. As mentioned elsewhere, (Fatima, 2012:678) this Regulation is devised to support the parties to discontinue their involvement in cartel activity and report such activity even after its existence is established (Siemens Engineering Company Ltd Leniency Order, 2012:25). The CCP preserves the preference of whether or not to grant a reduction of fines to applicants (CA, 2010: § 39 (1)). The CCP grants the reduction of fines only when the applicant satisfies that they have furnished a “full and true disclosure” about the suspected infringement. Leniency Regulations 2019, similar to Leniency Regulations 2013, provide for a reduction of the financial penalty without specifying any fixed percentage. This shows that the CCP has been given the discretion to determine the percentage in cases of reduction of fines in leniency applications. In exercising this discretion, the CCP takes into account various factors, such as the stage when an undertaking approaches the CCP, the nature, and type of evidence that the CCP already possesses, and the “quality and nature” of the evidence the undertaking put forth (Leniency Regulations, 2019: Regulation 4(3)). Genuine and full cooperation of the undertaking constantly till the end of administrative proceedings is further required along with an assurance of absence of coercion on another undertaking to take part in any violations (Leniency Regulations, 2019: Regulation 4(3)).

Fatima argues that maintaining discretionary powers of the CCP results not only in increasing “uncertainty in the leniency process” but also “unpredictability” for leniency applicants. According to her observation, these standards are highly criticized and considered to negatively affect the leniency program and the results desired from it (Fatima, 2012: 678).

Under Leniency Regulations 2013, the first undertaking could avail a “reduction in the amount of fine” when it provided the CCP with “material, additional, corroborating or contemporaneous evidence” of the prohibited activity. (Leniency Regulations 2013, Regulation 4 (1) (a)) However, Leniency Regulations 2019, omit the term “corroborating” from its list. (Leniency Regulations 2019, Regulation 4(1)(a)) This means that the quality of additional valuable evidence provided should strengthen the CCP’s enquiry or proceedings to establish the violation.

Regulation 4 (1) (c) Leniency Regulations 2019 states that the leniency applicant may benefit from the reduction of penalty if the additional evidence submitted was earlier not possessed by the CCP and signifies “significant added value” to the evidence already in CCP’s possession. Thus, such evidence additionally substantiates the suspected infringement and meets the “significant added

value” test. In other words, the entitlement for leniency, in this case, is dependent on the fact that the additional evidence submitted by the leniency seeker was not known to the CCP earlier and also substantially supplements the CCP’s evidence that it already possessed, thus further confirming the breach. In the definition clause, Regulation 2 (i) Leniency Regulations 2019 defines the concept of “significant added value”. It states that the “significant added value” means the importance of the evidence as the CCP may determine, keeping in consideration the “materiality, corroboratory, incriminating or contemporaneous nature of the evidence”. The term “incriminating” was not part of the definition provided by Leniency Regulations 2013. Further clarification is needed for these terms.

A similar requirement can be found in Leniency Notice 2006 of the EU for undertakings to qualify for a reduction of fines. (Leniency Notice, 2006: point 24). The undertakings must submit evidence that “adds significant value” to already possessed evidence by the European Commission.

The applicant under Leniency Regulations 2019 may avail the benefit of a reduction in the amount of the fine when it unconditionally admits infringement of the alleged offense, abandons its participation in any prohibited activity immediately, and makes full and true disclosure (Leniency Regulations, 2019: Regulation 4(2)). The undertakings can pursue leniency at any time during the investigative procedure and before the final decision. (Leniency Regulations, 2019: Regulation 4(1)(b)) Regulation 4 (1) (b) of Leniency Regulations 2019 states that an undertaking may benefit from a reduction in the amount of fine upon fulfillment of certain conditions, such as providing information to the CCP before a “Show Cause Notice” is served, or even after commencement of proceedings under Section 30 CA 2010, but before the CCP passes an Order. Wilson, former Chairman of the CCP, at a press conference, stated that the benefits of leniency could only be availed when the violation has not been proved yet and it is still an allegation. When the CCP establishes an infringement and passes an Order in this regard it is no longer an alleged violation (Wilson, 2013).

Introducing Leniency Plus

When an undertaking fails to qualify for full immunity under Regulation 3 of Leniency Regulation 2019, it may still avail the benefit of a reduction in financial liability under Regulation 4 or Regulation 5 of Leniency Regulation 2019. Leniency Regulation 2019 has introduced ‘Leniency Plus’. Regulation 5 of Leniency Regulations 2019 acknowledges the disclosure of immunity applicants regarding additional cartel infringements. For instance, when an undertaking, under Leniency Regulations 2019, fails to meet the criteria to grant full immunity regarding alleged cartel conduct in one market, may apply for a reduction in the amount of fines based on its cooperation concerning a prohibited activity in another market subject to fulfillment of certain conditions as mentioned in Leniency Regulations 2019.

An undertaking, to qualify for leniency plus, requires providing the proof of existence of a separate cartel activity other than the one already under investigation by the CCP. The evidence provided needs to meet the evidential threshold to justify granting full immunity/reduction in the amount of fine pertaining to its activities in the second cartel (Leniency Regulations, 2019: Regulation 5(2)). The minimum evidential threshold is to provide “sufficient information” to investigate the case, or to satisfy the “Significant Added Value” test (Leniency Regulations, 2019: Regulation 5(4)). For leniency plus, similar to the reduction in the amount of fine case, the undertaking’s application is

considered only when there is an unconditional admission of violation of Section 4 of CA 2010, a promise to abandon its involvement in the suspected cartel agreement, and full disclosure of all the facts it is aware of (Leniency Regulations, 2019: Regulation 5(5)).

PROCEDURE FOR OBTAINING LENIENCY

Applying for Immunity

Leniency Regulations 2019 introduces a “marker system” for full immunity applicants under which an immunity applicant can assure his place in the queue without offering all evidence initially. An applicant, to qualify for a marker, is required to present material information concerning the parties involved in the alleged cartel, the involved products and regions, and the length and nature of the alleged cartel activity. The applicant should also provide information to the CCP concerning any similar leniency applications in the past or future, if any, to other jurisdictions (Leniency Regulations, 2019: Regulation 6(A)(2)).

The prime objective of the leniency program is to penetrate the cloak of secrecy maintained by cartels to dismantle such activities and bring the infringements of the law to an end. Therefore, the reason to uncover cartel activities is an adequate justification to request a marker (Sandhu, 2007:151; Riley, 2002:91-92).

When a marker is granted, the applicant needs to “perfect the marker” by putting forward all the required evidence and information in a given time period (Leniency Regulations, 2019: Regulation 6(A)(3)) When a potential immunity applicant applies formally to the CCP for immunity from fines, it must include a detailed list of evidence that is to be produced at a later stage (Leniency Regulations, 2019: Regulation 6(A)(2)(h)).

When the CCP finds that the evidence submitted is sufficient “to meet the evidential threshold for immunity”, it informs the applicant in writing via letter regarding its intention to grant immunity from fines (Leniency Regulations, 2019: Regulation 8) or, where preliminary assessments prove otherwise, to reject the application for immunity (Leniency Regulations, 2019: Regulation 9). The applicant, in case of rejection of an application for full immunity, is permitted to request the CCP to take into consideration its application for a reduction of the fine (Leniency Regulations, 2019: Regulation 6(A)(7)). The CCP takes the final decision on whether to grant leniency at the end of the proceedings. The decision on whether or not to grant leniency is therefore rather discretionary than automatic.

If the CCP eventually discovers that the immunity applicant, while the application is under consideration, has failed to fulfil all the conditions attached to leniency, it is authorized to refuse the immunity and inform the applicant of its decision (Leniency Regulations, 2019: Regulation 9(2)).

Applying for Reduction in the Amount of Financial Penalties and Leniency Plus

Under Leniency Regulations 2019, there is no marker system for leniency applications for a reduction of fines. The potential applicant for a fine reduction makes a formal leniency application to the CCP. The undertaking, to qualify for a reduction of a fine, as noted earlier, needs to provide evidence that “adds significant value” to the evidence already in possession of the CCP and must

also meet the cumulative conditions. The applicants are entertained on a “first come first serve” basis (Leniency Regulations, 2019: Regulation 6(B)). Where the CCP considers, in its preliminary assessment, that the evidence presented fulfills all the requirements, it informs the applicant of its intention to grant a reduction of the fine, including, the level of reduction, in writing (Leniency Regulations, 2019: Regulation 8). Where the applicant does not qualify for partial immunity, this will also be notified to it, in writing (Leniency Regulations, 2019: Regulation 9). The applicants will not be certain about acceptance or non-acceptance of their reduction of the fine applications until the end of the procedure. This leads to uncertainty that urges the potential applicants either to avoid approaching the CCP for fine reduction or to approach it only in circumstances when they are quite sure that they will fulfill the “significant added value” test (Sandhu, 2007:153). Any of these consequences destroy the very objective of a leniency program. According to some, the process could be more transparent and predictable if a marker system were introduced for a reduction of fines, guaranteeing the applicants’ position in the queue. In this manner, the CCP and an applicant with mutual consent could fix the time duration within which the applicant was required to submit “additional evidence” (Sandhu, 2007:153). The CCP would not only be able to gather all significant information from the applicant in a relatively short time duration but would also be able to assess, within a reasonable time, whether the information submitted meets the standard of “significant value addition” (Sandhu, 2007:153-154).

Withdrawal of Leniency Application

Regulation 10 Leniency Regulations 2019 permits an undertaking to withdraw its application before the CCP’s decision. This opportunity was not available to applicants under previous regulations. However, the CCP, after withdrawal of leniency application, may proceed to act against the applicant following the provision of CA 2010.

Maintenance of Confidentiality

Regulation 7 Leniency Regulations 2019 relates to the rule regarding confidentiality. One of the most important features of Leniency Regulations 2013 was the improved confidentiality regime that is maintained in Leniency Regulations 2019 as well. The rule guarantees to immunity applicants that their identity and information will not be made public until the grant of leniency. Regulation 7 states that the CCP, upon request by the applicant, ensures the confidentiality of the applicant under Leniency Regulations 2019 to the necessary extent within the defined parameters. Wilson maintains that under Leniency Regulations 2007, “a case of leniency was made public by placing it on the CCP’s website” which harmed the proceedings (Wilson, 2013). Thus, one of the most important changes in Leniency Regulations 2013 was the improved confidentiality regime, which provided more guarantees to immunity applicants that their identity and information were not made public until the grant of leniency.

Within the European Union, Regulation 1/2003 places a significant emphasis on upholding professional confidentiality. All information gathered by the European Commission will only be used for the purpose for which it was acquired (Regulation 1, 2003: Art: 28). Regulation 773/2004 underlines that the European Commission must maintain confidentiality concerning the information and documents containing business secrets of any person. Furthermore, the applicant is required to identify the material that he considers confidential at the time of tendering such

information/documents (Regulation 773, 2004: Art: 16 (1) (2) (3)). In case of failure of an applicant to comply with the requirement mentioned above, the Commission presumes that the information/documents submitted do not enclose any confidential information (Regulation 773, 2004: Art: 16 (4)). The information received during the proceedings is required to be used only for the “judicial/administrative proceedings.” Leniency Notice 2006 stresses maintaining the confidentiality and the amendment of Leniency Notice 2006 in 2015 clarifies that the party’s failure to fulfill the requirements of Regulation 773/2004, during the proceedings, to use the information acquired through “access to the file” is viewed as “lack of cooperation” and subject to penalties, under “certain circumstances, as prescribed by national law (Regulation 1348, 2015: Art:16a; read with Amendments to the Commission Notice on immunity, 2015: point 34). It further states that the European Commission is bound not to communicate the “leniency corporate statements” to national courts to be utilized in “actions for damages for breaches” of Article 101 TFEU (Amendments to the Commission Notice on immunity, 2015: point 35a).

Revocation of Leniency

The CCP has the authority to revoke leniency when the undertaking fails to comply with the conditions on which a lesser fine was imposed or has given false evidence (CA, 2010: § 39 (3)). Under these circumstances, the CCP imposes on the undertaking the penalty provided under Section 38 of CA 2010. For instance, in its only leniency Order, the CCP warned Siemens (Pakistan) that the leniency would be revoked if facts proved that the undertaking breached any commitment or violated the conditions laid down in CA 2010 (for example, if the undertaking hid any information/concealed information or was reluctant to fully cooperate) (Siemens Engineering Company Ltd Leniency Order, 2012). Regulation 4 (5) Leniency Regulations 2007, (Leniency Regulations, 2007: Regulation 4 (5)) highlighting the rule on revocation of leniency, is no longer part of Leniency Regulations 2013. It is an ambiguous situation because it is unclear whether or not the CCP is authorized to revoke full leniency.

European Commission’s Leniency Notice 2006 clarifies that an applicant for full immunity must, along with the conditions mentioned in points 8(a), 9, and 10 or in points 8(b) and 11, fulfill the conditions prescribed in point 12. Applicants for a reduction of the fine must satisfy the conditions set out in point 12 to benefit from incentives set out in Leniency Notice 2006. The latter adds that if the Commission finds that the full immunity applicant has instigated others to join or to continue the infringement of the law, it will withhold immunity where it has been granted conditionally (Leniency Notice, 2006: point 22). Therefore, if the European Commission finds that the undertaking fails to meet the conditions provided in point 12, the undertaking does not benefit from Leniency Notice 2006 in an advantageous manner.

DESIRED IMPACT AND IMPLICATIONS OF LENIENCY REGULATIONS 2019

Enhanced Deterrence and Detection of Anti-Competitive Practices

The current situation of Pakistan’s leniency regime reflects that the level and the type of the existing penalties may not be enough to encourage cartel participants to secure the benefits of leniency. No leniency applications have been received, except for one in 2012. The leniency program of Pakistan, if it is to succeed, should assist the CCP in considerably shortening cartel

proceedings (in most cases, the length of a cartel investigation, from the commencement of the enquiry to the final decision of the CCP, is above 1 year), (Pakistan Automobile Manufacturers Order, 2015: the cartel investigation took 16 months) as leniency programs do in all successful jurisdictions, since leniency applicants will provide the necessary evidence. It would ultimately ensure that the CCP optimally uses the information received through leniency. This is considered to be the most desirable outcome, both for the CCP and the undertakings concerned. As a report states, “leniency is time effective. Prosecuting cartels is generally a long-term exercise. With the promise of leniency, evidence is received quickly, as opposed to collecting it over long time frames, and anti-competitive behavior can be addressed sooner reducing prolonged loss of consumer welfare” (Report on State of Competition, 2012:44). As the European Commission imposes heavy fines on undertakings involved in a cartel. There is an effective EU “leniency policy” since, in recent years, most cartels have been detected by the European Commission after confession by one or more cartel members. It is estimated that nearly one-quarter of cartel cases are initiated ex-officio, whereas about three-quarters are initiated by leniency applications (European Cartel Statistics, 2021; Dierx *et al.*, 2022).

Increased Incentives for Undertakings to Self-Report Cartel Activities

There is a need for more transparent and predictable rules and the necessary incentives that encourage cartel participants to self-report and cooperate with the CCP to make the leniency program effective. In Leniency Regulations 2019, potential applicants cannot predict, with any degree of certainty, the treatment they are going to receive if they self-report cartelization and fulfill all other conditions (Cauffman, 2011) There are high evidential thresholds and the CCP enjoys wide discretion, in determining what kind of information qualifies the “significant added value” test, in finalizing a reduction of the financial penalty up to any percentage, and in imposing conditions which leniency applicants fulfill to be entertained under these Regulations. It is recommended that comprehensive details are provided that will ensure that the very purpose of the leniency program is not harmed. CA 2010 issued Competition (Reward Payment to Informants) Regulations 2014 as an additional tool to uncover cartels whereby reward payments are offered to individual whistle-blowers who are aware of competition law infringements but are not directly involved in the infringement. However, the CCP failed to achieve the desired results.

Strengthening of Competition Advocacy and Enforcement Measures

The effectiveness of the leniency programs depends on various factors, such as the level of awareness vis-à-vis competition laws, enforcement mechanisms, and incentives offered by competition laws. For instance, the European Union’s cartel detection mechanism is effective as compared to Pakistan due to, *inter alia*, their robust and well-implemented leniency program.

Potential Challenges and Limitations of the Leniency Provisions

Our research observed that the leniency program in Pakistan is not effectively attaining the desired result. There are certain subjects that Leniency Regulations 2019 fail to address and the CCP is recommended to adopt a comprehensible stance. For instance, CA 2010 authorizes the CCP to revoke leniency not only when the conditions on which a lesser fine was granted, are not complied with, but also when an undertaking has given false evidence. Leniency Regulations 2019 fails to

highlight the rule on the revocation of leniency. Leniency Regulations 2007 did provide such a rule in Regulation 4 (5), but this is no longer part of Leniency Regulations 2019. It is an ambiguous situation because it is unclear whether or not the CCP is authorized to revoke full leniency. As discussed above, actions must be taken to enhance the transparency and predictability of leniency procedures (Cauffman, 2011). It is also recommended to address the issues of 'uncertainty', 'high evidential threshold', and the element of 'subjective approach' in Leniency Regulations 2019, especially because they, at present, contribute negatively to the CCP's policy in prosecuting cartels.

CONCLUSION

The article examines the Leniency Regulation 2019 of Pakistan and compared them with previous regulations and the European Union leniency notice, where necessary to evaluate their impact on cartel deterrence. The article discusses the brief history of leniency regulations in Pakistan. It highlights the scope, applicability, and salient features of Leniency Regulations 2019. For instance, the Leniency Regulations 2019 has launched a 'marker system' for full immunity applicants. The procedure that is adopted in case of rejection of the application for full immunity of the first marker holder is also provided. Leniency Regulation 2019 has introduced 'Leniency Plus' as well. The procedures for obtaining full leniency, reduction of fines, and leniency plus are presented. An undertaking is allowed to withdraw its leniency application before the CCP's decision. The article analyses the desired impact of the Leniency Regulations 2019. It is argued that an effective leniency regulation enhances deterrence and assists in the detection of anti-competitive practices. It provides incentives for undertakings to self-report cartel activities and strengthens the enforcement measures of the competition authority. The article identifies the challenges and limitations of the Leniency Regulations 2019. It is highlighted that various factors contribute to the successful implementation of leniency programs, such as the level of awareness among undertakings and masses regarding competition laws, enforcement procedures of competition authorities, and incentives provided by the competition laws. It is, therefore, concluded that the leniency program of Pakistan still needs time to achieve the desired outcome.

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