

**SENATE OF PAKISTAN  
HOUSE OF THE FEDERATION**

REPORT NO.21 OF 2017



*House of the Federation*

**SPECIAL REPORT OF THE STANDING COMMITTEE ON FINANCE,  
REVENUE, ECONOMIC AFFAIRS AND NARCOTICS CONTROL  
(UNDER RULE 193 OF THE SENATE RULES)**

**ON**

**THE NON-PAYMENT OF THREE PERCENT REGULATORY DUTY BY THE  
REGULATORY AGENCIES I.E. SECP, NEPRA, OGRA, PTA AND PEMRA OF  
THEIR ANNUAL FEES TO THE COMPETITION COMMISSION OF  
PAKISTAN (CCP) UNDER THE CCP ACT.**

**PRESENTED BY**

**SENATOR SALEEM MANDVIWALLA**



## **SENATE SECRETARIAT**

### **SPECIAL REPORT OF THE STANDING COMMITTEE ON FINANCE, REVENUE, ECONOMIC AFFAIRS AND NARCOTICS CONTROL ON NON-PAYMENT OF THREE PERCENT REGULATORY DUTY BY THE REGULATORY AGENCIES OF THEIR ANNUAL FEES TO THE COMPETITION COMMISSION OF PAKISTAN (CCP) UNDER THE CCP ACT.**

I, Senator Saleem Mandviwalla, Chairman of the Standing Committee on Finance, Revenue, Economic Affairs and Narcotics Control, have the honor to present, on behalf of the Committee, Special Report, under rule 193 of the Rules of Procedure and Conduct of Business in the Senate, 2012, on non-payment of three percent regulatory duty by the regulatory agencies i.e. SECP, NEPRA, OGRA, PTA and PEMRA of their annual fees to the Competition Commission of Pakistan (CCP) under the CCP Act.

2. The composition of the Committee is given as under:-

1.	Senator Saleem Mandviwalla	Chairman
2.	Senator Ilyas Ahmad Bilour	Member
3.	Senator Muhammad Mohsin Khan Leghari	Member
4.	Senator Ms. Ayesha Raza Farooq	Member
5.	Senator Muhammad Talha Mehmood	Member
6.	Senator Nasreen Jalil	Member
7.	Senator Kamil Ali Agha	Member
8.	Senator Mushahid Ullah Khan	Member
9.	Senator Saud Majeed	Member
10.	Senator Sardar Fateh Muhammad Muhammad Hassani	Member
11.	Senator Osman Saifullah Khan	Member
12.	Senator Mohsin Aziz	Member
13.	Minister for Finance, Revenue and Economic Affairs	Ex-Officio Member

3. The said matter was discussed by the Committee in its meetings held on 23<sup>rd</sup> February, 26<sup>th</sup> October, 2016, 5<sup>th</sup> January, 13<sup>th</sup> April, 17<sup>th</sup> August and 3<sup>rd</sup> October, 2017. The last meeting was attended by the following, namely:-

1.	Senator Saleem Mandviwalla	Chairman
2.	Senator Ilyas Ahmed Bilour	Member
3.	Senator Muhammad Mohsin Khan Leghari	Member
4.	Senator Ms. Ayesha Raza Farooq	Member
5.	Senator Nasreen Jalil	Member
6.	Senator Kamil Ali Agha	Member
7.	Senator Osman Saifullah Khan	Member
8.	Senator Mohsin Aziz	Member

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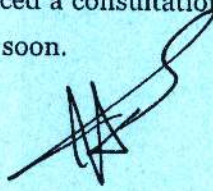
4. During the course of the briefing given in various meetings, the Chairperson, Competition Commission of Pakistan (CCP) informed that non-payment of 3% regulatory duty by the regulatory agencies made the Commission weak, therefore, the issue was taken up with M/o Finance in order to propose an amendment in the CCP Act or otherwise in order to make it more empowered.

5. The Additional Secretary, M/o Finance apprised the Committee that a meeting with the M/o Law and Justice would be held within a week's time to resolve the issue of challenging the duties of CCP in the courts of law by the regulatory authorities. He also informed that Minister for Finance would hold a meeting with all the stakeholders soon to resolve the said matter. The Chairperson CCP informed the Committee that the Competition Commission Act was basically a strong and an effective law passed by the Parliament but regulatory bodies were contesting in the courts of law against the existence of CCP and its constitutionality. She said that there was no provision in the other regulators' Acts regarding payment of three percent regulatory duty by them to the CCP, therefore, the other regulators' Acts also needed to be amended. The representative of the M/o Finance said that the proposal of the CCP was sent to the Law Division and they had suggested the CCP that the amendments in the other regulators' Acts could be made by issuing corrigendum.

6. The Committee also heard legal opinion of the Attorney General of Pakistan in its meeting held on 17<sup>th</sup> August, 2017, regarding constitutional provisions of CCP Act and other legal perspectives relating to the courts of law in the matter.

7. The Attorney General apprised the Committee that the issue of legality and the Act of CCP was there since its inception, however, the companies approached court of law and obtained stay order by challenging the relevant clause of CCP Act just after issuance of show-cause notices by the CCP but the same would no longer prevail as the matter was being pursued pro-actively and would be finalized very soon because the judgment had already been reserved in the matter.

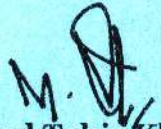
8. In the last meeting on the issue held on 3<sup>rd</sup> October, 2017, the Additional Secretary Finance informed the Committee that the SECP was already paying three percent regulatory duty of their fees to the CCP, while, the other regulatory agencies were reluctant to pay such duty. He also said that the M/o Finance had taken tangible steps on the issue and initially commenced a consultation process with all the stakeholders and the issue would likely to be resolved soon.



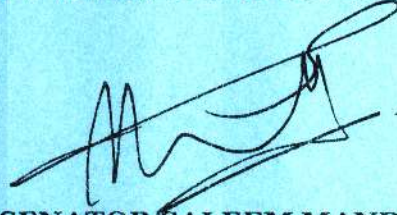


8. The Committee observed that the regulatory agencies were not paying three percent regulatory duty except the SECP even the Law Division was of the opinion that the CCP Act had the overriding effect on all the laws of such regulatory agencies. The Committee Members were of the considered view that despite the legal provisions regarding payment of three percent regulatory duty, the NEPRA, OGRA, PTA and PEMRA were reluctant to pay their obligatory duty (3 % of annual fee) and refusing to pay the same on <sup>one</sup> pretext or the other. After due deliberation, the Committee emphasized that the concerned regulatory agencies should pay their obligatory three percent regulatory duty to the CCP and recommended as follows:-

**"The M/o Finance should coordinate with the Cabinet Division and M/o Information and Broadcasting in order to make the respective regulatory agencies i.e. NEPRA, OGRA, PTA and PEMRA bound to pay three percent regulatory duty of their annual fees to CCP as envisaged in the CCP Act.".**



**(Muhammad Tahir Khan)**  
Secretary (Committee)



**(SENATOR SALEEM MANDVIWALLA)**  
Chairman (Committee)

Islamabad, the  
3<sup>rd</sup> October, 2017.