

# Supreme Court: Government-Requested Price Fixing Still Violates Competition Act

The Supreme Court upheld PVMA's liability for collectively fixing reduced ghee and cooking-oil prices, but cut the penalty from Rs 50 million to Rs 30 million.

Judgment analysis | Published 30 August 2026 | Shahbaz Shah, Advocate High Court

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## The Supreme Court's ruling

The Supreme Court of Pakistan has held that competing manufacturers cannot collectively fix a common selling price through their trade association, even when the agreed price is lower than before, benefits consumers in the short term, and follows a request from the Federal Government.

In *Pakistan Vanaspati Manufacturers Association v. Competition Commission of Pakistan*, Civil Appeal No. 367 of 2025, the Court affirmed that PVMA's conduct violated section 4 of the Competition Act, 2010. The association had participated in government consultations and communicated agreed reduced prices for ghee and cooking oil to its members.

The Court nevertheless found the Rs 50 million penalty excessive in the unusual circumstances. Because the Federal Government had initiated the negotiations and the conduct was not concealed cartel activity, the penalty was reduced to Rs 30 million. The appeal was therefore partly allowed, with no order as to costs.

## Why lower prices can still be anti-competitive

The most important part of the judgment is the distinction between a lower price and a collectively fixed price.

Lower prices produced by genuine rivalry ordinarily benefit consumers and reflect competition. But when competitors agree on one price, each business gives up its independent pricing freedom. The agreed figure does not become lawful merely because it is below the earlier market price.

The Court found that the manufacturers reduced and fixed prices at a particular level on the association's recommendation, and none reduced its price further. That demonstrated a collective understanding which displaced independent commercial decisions.

The legal vice was therefore not the direction in which the price moved. It was the collective process by which the price was determined.

## Section 4: object and effect are alternative tests

Section 4 of the Competition Act prohibits an undertaking or association of undertakings from entering into an agreement, or making a decision, that has the object or effect of preventing, restricting or reducing competition in the relevant market, unless exempted under section 5.

The Court explained that "object" means the goal, purpose or intrinsic nature of the conduct, while "effect" means its actual or likely consequence for competition. The two limbs are alternative, not cumulative.

Horizontal price-fixing between competitors is restrictive by its nature. Where the object of the arrangement is price-fixing, the Commission need not conduct a separate inquiry into its actual or likely market effects before section 4 is engaged.

This is a major practical point. A party cannot defend horizontal price coordination merely by showing that consumers temporarily paid less or that no measurable harm was proved.

## A non-binding trade-association recommendation may be a decision

PVMA argued that its communications were only recommendations and carried no penalty for non-compliance. The Court rejected the suggestion that a formally non-binding circular necessarily falls outside section 4.

An association's recommendation may amount to a prohibited decision where it is capable of influencing the commercial conduct of its members. The Court referred to IAZ International Belgium NV v. Commission, a European competition-law decision on recommendations issued by trade associations.

The substance of the arrangement matters more than its label. A circular described as advice can still coordinate competitors if members accept it and align their market conduct accordingly.

## Government involvement is not a complete defence

PVMA maintained that it had acted at the Government's request for the public good and in furtherance of the State's responsibility under Article 38 of the Constitution.

The Court accepted that the Government wanted consumers to receive the benefit of falling international palm-oil prices. It did not question that intention. But good intention did not remove the statutory requirement that manufacturers determine prices independently.

The judgment therefore rejects a broad state-action defence on these facts. The Government persuaded the industry; it did not impose uniform prices through a legal command that displaced ordinary competition law.

For businesses and associations, the practical warning is clear: an informal request, policy meeting or political desire for price relief is not legal authorization to coordinate prices. Before acting collectively, an association must examine the Competition Act and seek appropriate advice or exemption where available.

## The Government should have approached the Commission

The Court also criticized the Federal Government's institutional route. Under section 12(3), the Competition Commission is administratively and functionally independent, and the Federal Government must use its best efforts to promote and maintain that independence.

If the Government wanted manufacturers to pass lower raw-material costs to consumers, the Court said it should have taken the matter to the Commission. The Commission could then advise individual undertakings while preserving their freedom to determine final prices according to their own commercial circumstances.

Directly approaching the trade association bypassed the statutory regulator and interfered with its affairs. The Court warned that allowing such intervention to continue could permit future manipulation of markets for political or personal considerations.

This part of the judgment matters beyond the edible-oil industry. It places responsibility on government ministries as well as private businesses to respect the regulator's statutory role.

## Why the penalty was reduced

The finding of contravention remained intact. The Court held that both the Commission and the Competition Appellate Tribunal had correctly applied section 4.

The surrounding circumstances were, however, relevant to punishment. This was not a concealed agreement or covert cartel formed solely by competitors. The negotiations began at the Federal Government's instance and sought a reduction in consumer prices.

Those facts did not excuse the violation, but they reduced its gravity for penalty purposes. The Court therefore cut the penalty by Rs 20 million, from Rs 50 million to Rs 30 million.

The distinction is legally sound: government encouragement may mitigate the penalty without erasing liability.

## The Commission must prevent, advise and enforce

The judgment gives substantial attention to sections 28 and 29 of the Competition Act. The Commission's mandate is broader than prosecuting violations and imposing fines. It includes market studies, enquiries, advice, awareness, competition advocacy and preventive action.

The Court described punishment as a measure of last resort where efforts to build a culture of competition and secure compliance have failed. It urged the Commission to identify risky practices early, alert undertakings and associations, and use advocacy to prevent violations.

But this is not a mandatory precondition to every enforcement case. Where the material already discloses a clear contravention, the Commission may proceed directly under the Act without first exhausting advisory or advocacy measures.

That qualification prevents the judgment from being misread as creating a defence based merely on the absence of a prior warning.

## Practical consequences for trade associations

Trade associations may legitimately represent members before government, communicate regulatory concerns, commission sector research and advocate policy reform. The danger arises when collective activity begins to shape members' independent commercial decisions.

Associations should avoid:

- recommending a common purchase or selling price;
- collecting and circulating current or future company-specific pricing data;
- coordinating the timing or extent of price increases or reductions;
- presenting a negotiated industry price as a rate members are expected to follow; and
- treating a government request as immunity from competition law.

Minutes, circulars, costing-committee material and member responses may establish a collective understanding even where no legally enforceable contract exists.

## Limits of the judgment

The decision does not hold that every discussion between government and an industry body is unlawful. Nor does it prohibit an association from sharing general market information or advocating consumer relief.

It addresses collective price determination by competing undertakings. Liability arose because the consultation produced agreed reduced rates communicated through the association and followed by members, replacing independent pricing rivalry.

The judgment also does not say that actual market effects are irrelevant in every competition case. Its no-separate-effects reasoning applies to conduct, such as horizontal price-fixing, whose anti-competitive object is established by its nature.

## Final legal position

The Supreme Court's rule can be stated simply: competitors must decide their own prices. A common price fixed through their association remains unlawful under section 4 even if it is lower, temporary, publicly announced, requested by government or motivated by consumer welfare.

Government involvement may affect the penalty, as it did here, but it does not convert coordinated pricing into lawful competition.

## Judgment record

The supplied nine-page Supreme Court judgment is available on this page for public viewing and download. The case title, appeal number, parties, bench, hearing date, statutory provisions, comparative authority, reasoning, penalty and final order were checked against that document.

The judgment records the hearing date as 24 June 2026 and states that it was approved for reporting. The announcement line in the supplied copy is blank, and no reported-law citation is stated. Those details should be verified from the official court record before formal citation.

This commentary is independent legal analysis for research and general information. Counsel should verify the official judgment, current statutory text and any later reported citation or judicial treatment before relying on it in proceedings.

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## Primary source

Supreme Court of Pakistan, Pakistan Vanaspati Manufacturers Association v. Competition Commission of Pakistan, Civil Appeal No. 367 of 2025, approved for reporting. Supplied judgment available on the corresponding article page.

General legal information only. Verify the official judgment, current statutory text and later judicial treatment before formal reliance.