Presentation at the Sam Sharpe Teachers College, Montego Bay,
On March 16, 2004 at 3:00 p.m.

Theme: **Water is Life**

Occasion: **World Consumer Day**

Topic: **The Implications of De-regulation**

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Good afternoon ladies and gentlemen. It's a pleasure to be here and to have this opportunity to participate as a panelist in your programme. I will be speaking about de-regulation. Although we might see de-regulation as the business of policy makers and Government bodies, the fact that it affects all aspects of the economy means that ultimately it affects you and me, the ordinary consumer. My focus will therefore be on the implications of de-regulation for the consumer.

Let us go back in time to the 1970's. Some of us probably were not around then! But some of us are old enough to remember when Jamaica had only a few large monopolies and almost everything was regulated by the Government. We had a refinery which was the only importer of fuel products and crude oil, one Telephone Company (can anybody remember that!!??). The Government determined the bases upon which resources would be allocated. There was a limit on the amount of foreign exchange you could buy. We had the Commodity Boards such as the Coconut, Cocoa and Coffee Boards, which had exclusive licenses to import and export goods. Organisations such as the Prices Commission determined the prices of goods and services as well as how they would be distributed. I remember going to the supermarket with my Mother in the seventies, and the choices were limited. At that time the prices of goods like mackerel, salt fish, flour, bread, water crackers and kerosene oil, were fixed.

During this period, the Government pursued a policy of industrial self-reliance. The approach was to increase the use of indigenous materials in production and to develop a system in which local industries supported each other with local expertise and locally produced sub-components. For example, I remember a certain local brand of shoes which I hated, but was forced to wear. The intention was to reduce the country's dependence on imports and reduce the outflow of foreign exchange to foreign concerns as payment for profits, royalties and debt. Montego Bay has first hand experience of this/Montegonians will understand this because you have experienced the free zone in which huge foreign companies set up businesses here, brought their own workers, made huge profits and repatriated foreign exchange.

The policy did not achieve the intended goals and the general result was an increased dependence on foreign imports and increased repatriation of foreign exchange. Also, rather than fostering the development of indigenous industries, it led to the development of assembly plants for imported components. Competition was discouraged and resources did not flow freely to their most productive use.

What is meant by the term de-regulation? The term has been used loosely and interchangeably with words such as liberalization, demonopolization and privatization. It is, however, distinct from these. De-regulation is defined as "the removal of controls on a particular market aimed at improving the economic efficiency of that market and therefore the performance of the economy at the microeconomic level." Put simply (the definition that I like) de-regulation means 'cutting the red tape'. Government regulations include price controls, licenses and permits, subsidies and cross-subsidies, tariffs and others taxes. These are all instruments used by governments to control the price or supply of goods and services so as to benefit specifically selected sectors in the society, e.g. the poor. During the last two decades of the 20th century, many governments throughout the world, committed themselves to the free market system and pursued policies of liberalization. Liberalization seeks to limit the role of government to providing the environment in which the private sector can operate freely to have the market economy work efficiently. De-regulation, privatization and demonopolization are all part of the process of liberalization. Liberalization is part of the general movement toward globalization, which has been characterized by multilateral agreements such as **GATT** (General Agreement on Tariffs and Trade), **GATS** (the General Agreement on Trade in Services) and **TRIMS** (the Agreement on Trade-related Investment Measures), among others.

The process of de-regulation began in the 1980's with a focus on 3 main areas.

The first was the removal of the import-licensing regulations which required licenses and quotas for virtually all imports. Statistics show that by 1990 over 1,000 items or about 85% of all items on licence, were removed from the list and were being imported without licence. This is about the period when the commodity boards were dismantled. The Jamaica Citrus Growers Limited lost its exclusive license to import orange concentrate when the industry was de-regulated.

The second area was the removal of controls on prices of items hitherto subject to price control. The Prices Commission was dismantled in 1991 and was replaced by the Consumer Affairs Commission (CAC) which protects the rights of the consumer and advocates for consumer interests. The focus shifted from policing prices to consumer education.

The third major area saw the elimination of a multitude of regulations governing income tax allowances and tax rates.

The second phase in the process of de-regulation involved (1) the removal of a statutory savings interest rate which allowed banks to pay lower interest rates to savers and reduce interest rates on loans; (2) the removal of retail price controls on a number of petroleum products e.g. gasoline, which effectively brought about the removal of price controls at the pumps (3) the abandonment of an auction system to determine the rate of exchange and substitution of an inter-bank rate for the same purpose.

Critique

The system of regulation in fact protected the inefficient producer and distributor by providing guaranteed prices for inferior goods and services. I remember that the average lifespan of a certain local shoe of the 1970's was anywhere from 3 days to 3 months and that was ***if*** you walked very tenderly and in a straight line!! De-regulation would allow enterprises to compete with each other in open markets. This new competitive environment, shaped by market forces, was expected to result in economic efficiency, sustained economic growth and enhanced consumer welfare. These goals would not be achieved if the market failed, however, and legislation was passed to 'regulate' the new competitive environment. In 1993 the Fair Competition Act was passed to prevent anti-competitive conduct such as:

- collusive activity among competitors, geared to, among other things, fix prices, carve out markets for the provision of goods and services (i.e. cartel activity);
- abuse of market power by firms which have market power (abuse of dominance)

With this legislation came the birth of the Fair Trading Commission in 1993. This agency was to become the watch dog of competition.

The most recent phase of the de-regulation process began with the liberalization of the telecommunications sector. The fact that AT&T has obtained a license to operate in Jamaica dominated the news headlines just week before last. ***(As a matter of fact, there were still articles up to last week!).*** Note that there is still need for regulation of some aspects of this and other sectors; hence, the Office of Utilities Regulation (OUR) was established. Now that the motor vehicle industry has been de-regulated – there is no longer a quota for the importation of vehicles. Consumers may now order vehicles via the internet; people are now bringing in their own vehicles.

The Implications

De-regulation provides a number of general benefits such as encouraging competition in the economy, eliminating protective barriers which were erected by monopolies and providing greater opportunities for new and creative entrepreneurs to enter the market place. These in turn, result in benefits to the consumer such as a wider choice of goods and services and as seen in the telecommunications sector, lower prices. For example, I understand that the cost of a certain mobile phone some years ago when competition just began in the industry, was about $4,500.00 and the same phone is now approximately $2,000.00!

If one wants proof of the many product choices available, one just has to go to a supermarket. The range of products available is mind-boggling. The market is flooded. Globalization and liberalization have resulted in local goods competing on the same level with foreign goods. We have chickens from the United States competing with our chickens. Cornflakes, beef, drinks . . . these products come from Trinidad and other Caribbean countries, from the United States, Europe, even from the Phillippines and the Pacific countries. Shoes are imported from a range of different countries such as Taiwan and Singapore.

What this means is that the consumer is empowered. In other words, it is the choice of the consumer that determines what sells; if the consumer is not willing to buy the good, it will not do well in the market. We call this ‘purchasing power’. With such a wide array of goods and services, the consumer must make wise choices. This is why the FTC places so much importance on the availability of material information so that consumers can make informed choices when purchasing.

The consumer also benefits from a wide range of prices for goods and services and must be vigilant to ensure that he or she gets the best value for money.

The consumer must become aware of the agencies which exist to protect. Agencies such as the Bureau of Standards ensure that there is a basic standard for local and imported goods, so that the consumer is protected from goods which are injurious to his/her health and safety. So, for example, no matter how cheap a pack of matches is, if you decide to purchase it, it should not blow up when you strike it; and if you choose to buy a plastic chair because it is cheaper than, for instance, a wooden one, it should not give way when you sit on it! The Fair Competition Act ensures that merchants honour warranties and guarantees and, with regard to goods which are imported, if there are manufacturers' warranties, the importers of the goods stand in the shoes of the manufacturers and are obligated to honour the warranties.

In short, with de-regulation, it is the consumer who has the 'power of the dollar', to determine what obtains. This said, I am always very careful to mention the term '***caveat emptor***' or '**let *the buyer beware***', which means that the consumer has the responsibility of reading labels and checking goods before buying them. Therefore, if you examined the goods, you can't complain about defects which you should have seen!

Consumers are free to decide whether they buy quality goods, or goods of lower quality for cheaper prices. Some consumers will deliberately buy goods of a poorer quality, because they are cheaper, but at least there is a choice.

One interesting negative consequence of de-regulation has arisen out of the freedom to import and purchase a range of motor vehicles from Japan, Germany, the U.K. and the U.S. The Trade Board no longer applies quotas for motor cars and there is a flood of vehicles on the streets. The FTC has had a number of complaints regarding the model year of motor vehicles, but there is as yet no legislated standard and no regulatory body to determine what the country accepts as the model year of a vehicle. This problem has left the consumer unprotected and the FTC has lobbied with the relevant Ministries to have standards put in place.

These are some of the implications of de-regulation. But, we come to the question of water. Scientists seem to agree that 75% of the earth is made up of water and about 78% of a baby's body is water. An adult has about 60 - 65% of water and, on average, our brains are made up of 85% water. We can live without food for a long time, but without water we would die within days! It is therefore fair to say that ***water is life***. Is this sector part of the whole de-regulation process?

In 1981 by virtue of the National Water Authority (Change of Name and Amendment Act), the Water Commission Act came into being. This legislation gave birth to the National Water Authority which had virtual monopoly power to operate sewage systems and potable (***drinking***) water supply systems. The National Water Authority had the broad power to grant licenses and set the rate, the region in which the licensee was to operate and the period of the license. The NWC had such heavy powers that, for example, it had the right to dig up your property, connect you to its sewage system (whether you liked it or not!) and charge you for the connection! In addition to this, it was a criminal offence to obstruct any NWC worker while he was in the process of doing that!

As a government monopoly, the NWC's policies were set by the Minister in charge of water and expansion was often in tandem with a political agenda. Therefore, for example collection drives sometimes ran counter to the political agenda, sewage lines might be run through a squatter community even though it was not economically viable to do so, and the NWC could not increase rates in certain areas. The Office of Utilities Regulation Act triggered the de-regulation process by allowing the OUR to grant licenses. The process went a step further with the repeal of sections of the NWC Act on February 17, 2004. The OUR was given the power to grant licenses and rates subject to the approval of the Water Commission.

While the water sector is not completely de-regulated, the process has begun, so that any person who wishes to enter the sector may construct a system to abstract water from below the surface and in order to supply services the individual may seek an abstraction license from the Water Resources Authority. The OUR, however, must obtain the NWC's approval before granting licenses. There is a wide discretion without any conditions or guidelines to be taken into consideration.

Further amendments are being made to the Act and eventually the NWC will become a limited liability Company.

On a global scale, our country would be categorized as a small jurisdiction. Small domestic markets tend to be characterized by natural monopolies in public utilities such as electricity, gas, fixed line telephony and water. This is because relatively large overheads do not permit more than one entity to viably supply the service. In fact, the water industry is extremely capital intensive and a major barrier to entry is cost. For example, to 'prove' a well to check for potable water costs about 5 million dollars – and that might be a sunk cost! Further, sewage is far more costly so that, for example, the cost to lay the Ocho Rios sewage system in 1999 was approximately $600 million United States dollars!

In looking at the implications of the de-regulation of water, it should be borne in mind that because water is such a vital commodity, its control and distribution raises a multitude of environmental, social, health and security concerns. In fact, it may even be a matter of national security that there be a licensing system in place. Restrictions on competition are allowed in many countries such as the

European Union, where government owned entities provide a 'service of general economic interest' that is essential for the public, such as water supply.

It is important for a country to monitor its water sources for health and safety. Consumers need to be confident that the water supply will not fall into the hands of those who would or could do harm. For instance, imagine if a license is granted to someone with terrorist connections or to a Biochemics Company! The German Social Watch Report group editors of the German NGO Forum World Social Development Summit noted that in Germany the water and waste-water management industry deals with a basic human need and involves environmental policy decisions which have far reaching implications. It was noted that in that country, the fact that profits must be generated for shareholders, causes prices to increase over the short to medium term. In order to conceal this fact, there is a tendency to dispense with the regular maintenance which is necessary to guarantee security of supply, as well as the investment required to safeguard resources. It was observed that there is a risk that private companies will make handsome profits through the sale of drinking water, while the costly business of protecting the water is left to public funds ***(tax payers).*** It is concluded that, for that country, monitoring and control of pollutant discharges are tasks for the public institutions. I would just like to point out that the flip side of that is that a Government regulated entity has no need to be profitable and therefore has no need to be efficient- so there are two considerations here.

It is also desirable that the sewage system be regulated as issues of pollution become crucial. It must be ensured that sewage is properly treated and disposed of in ways that are not detrimental to the environment, the ecosystem and the health of Jamaican consumers. I don't know whether anybody saw the article in the Sunday Gleaner entitled "No Swimming". It was about the water quality of 3 beaches on the rim of Kingston Harbour "the Gunboat, Buccaneer and Harbour head beaches". The article noted that the distribution of faecal coliform bacteria exceeds standards accepted by the World Health Organisation.

Bathing in the beaches could result in skin and ear infections and, if the water is ingested or seafood is caught at those beaches and consumed, could result in gastro-enteritis and diarrhea. This is all because of malfunctioning sewage plants. There is also the problem of some of our coral reefs (e.g. in Negril) which have been badly damaged because of improperly treated sewage. ***(see National Environmental and Planning Agency NEPA for more information)***

Despite these concerns, however, competition could also bring positives for consumers who would have wider choices of service. New technology introduced by new and innovative enterprises may mean a greater and more efficient water supply to consumers and competition may also result in better quality drinking water. Last week Monday (March 8, 2004) I read a Newspaper Report that there are water woes in Clarendon, Westmoreland and Saint James and that the government will need to spend $19 million on retooling for improvements in the water supply. An improved water supply to farmers who rely on irrigation for their crops would directly benefit consumers in the quality of fruits and vegetables and other produce. Areas which have been without water would benefit from piped water.

In summary, de-regulation has had many benefits in terms of goods and services for the consumer. Water is life - it is like blood. For such a vital commodity, the implications are far reaching and call for careful analysis and discussion.

Prepared by Wendy M. Duncan, Legal Officer, March 12, 2004.