



FTCNewsLine is an on-line quarterly newsletter of the **FAIR TRADING COMMISSION** that contains information on competition matters dealt with by the Fair Trading Commission as well as other competition agencies from around the world. The aim is to provide readers with insights into some of the matters that are prosecuted in other jurisdictions; and to assist businesses and consumers in better identifying issues that may pose competition concerns.

Competition legislation is specific to each jurisdiction and activities that are prohibited in one jurisdiction are not necessarily prohibited in other jurisdictions. For information on the prohibitions under the Jamaica's competition legislation, the **FAIR COMPETITION ACT (FCA)**, please visit our website at www.jftc.gov.jm.

In this Issue we feature issues related to the period January 1, 2017 to March 31, 2017.

Crichton v FTC - Appeal

In February 2017, the Court of Appeal heard the appeal by Crichton Automotive Limited (CAL) from the Supreme Court decision of the Honourable Mr. Justice Sykes, and allowed the appeal in part, affirming the judgment of the Supreme Court on the issue of liability and substituting the penalty of \$2 million with the sum of \$1.2 million.

With this affirmation CAL is liable for the offence of misleading representation in breach of section 37 of the FCA.

The FTC will be pursuing other similar matters against CAL and other used car dealers in the current financial year.

FTC probes construction industry

In January 2017, the FTC began investigating a complaint that Chinese-owned construction companies operating in Jamaica have an unfair advantage over local construction companies when bidding for private sector projects.

It is alleged that the Chinese-owned construction companies benefitted from tax waivers (General Consumption Tax and Duty Concessions) when they were initially contracted by the Government of Jamaica. Since then, they have bid on locally funded private sector projects using materials and equipment obtained with the concessions. This has placed local construction companies at a cost disadvantage since local companies do not benefit from these tax waivers.

FTC provides opinion on franchise arrangement

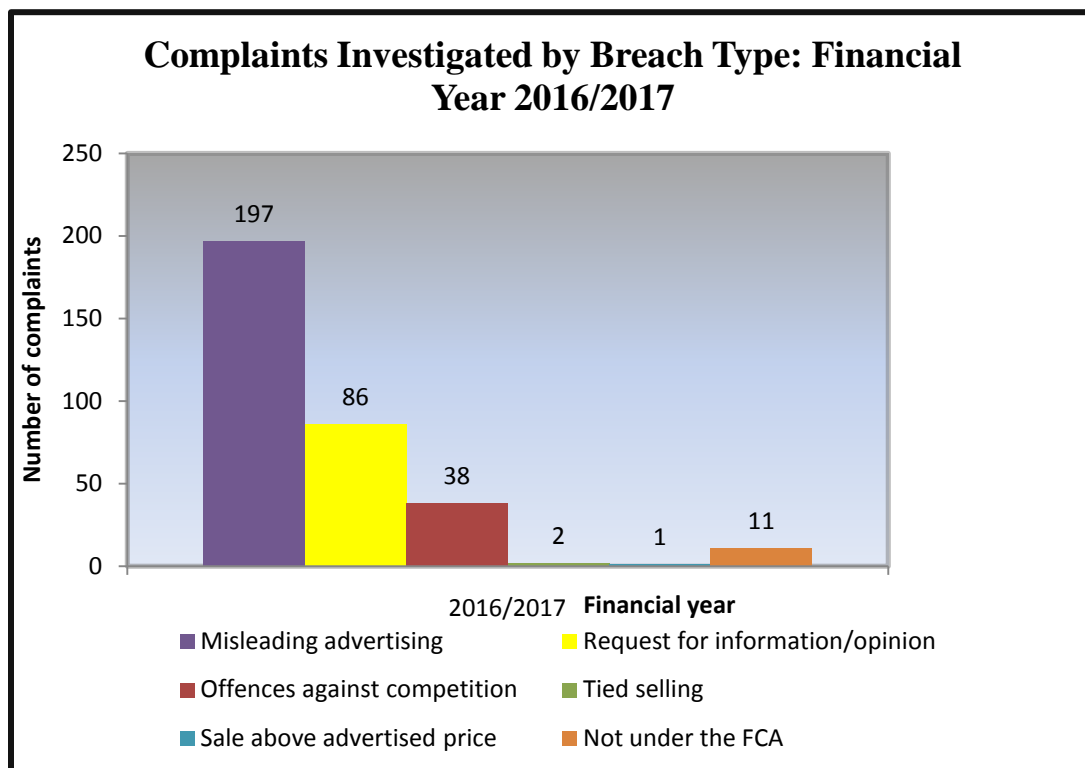
In February 2017, the FTC concluded a preliminary review of a Dealer Licence in the petroleum industry and concluded that some of the clauses potentially raise competition issues under the FCA; while other clauses do not. Notably, the issues raised require subsequent economic analyses to arrive at a conclusive finding on liability. In this regard, the issues may be ultimately ventilated by way of an appropriate application for authorization under section 29 of the FCA.

The review was requested by the Jamaica Gasolene Retailers Association (JGRA) in December 2016. The JGRA had alleged that the Licence prepared by a petroleum marketing company had certain clauses that are in contravention of section 17(1) of the FCA.

Complaints investigated during Financial Year 2016/2017

Over the period April 1, 2016 to March 31, 2017, the FTC investigated a total of 335 cases. This comprises 181 cases that were unresolved at the end of the previous Financial Year; and 154 cases which were received during the 2016/2017 Financial Year. For the period, 199 cases were resolved.

Of the 335 cases investigated, 197 were classified as matters concerning misleading advertising; 86 as request for information/opinion; 38 as offences against competition; two as tied selling; and one as sale above advertised price (See graph below). Eleven complaints were considered as being outside the purview of the Fair Competition Act; and were therefore forwarded to relevant agencies for consumer redress.



17th Shirley Playfair Lecture

The 17th Shirley Playfair Lecture was held February 22, 2017 at the Jamaica Pegasus Hotel in Kingston, Jamaica under the theme "The Quest for Growth: Competition and Industrial Policy, Complementary or Estranged Bedfellows." The lecture was delivered by Dr. Peter-John Gordon, former Chairman and Commissioner of the FTC and current Lecturer in the Department of Economics at the University of the West Indies. Dr. Gordon's presentation is available on the FTC's website at www.jftc.gov.jm.

NEWS FROM OTHER COMPETITION AGENCY – Federal Trade Commission

FTC releases annual summary of consumer complaints

Impostor scam complaints surpassed identity theft for the first time as the second most common category of consumer complaints received by the FTC's Consumer Sentinel Network in 2016, [according](#) to the agency's new [Data Book](#). Although debt collection complaints declined slightly between 2015 and 2016, they remained the top consumer complaint category, comprising 28 percent of all complaints. The rise in impostor scam reports is due to an increase in complaints about government impostors. The most widely reported method of payment for those who reported losing money to fraud was a wire transfer. The FTC urges consumers to be wary of any caller asking for a wire transfer. In 2016, the Consumer Sentinel Network collected more than 3.1 million consumer complaints.

Source: FTC International Monthly, March 9, 2017