



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

Competition legislations are 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**, please visit our website at [www.jftc.gov.jm](http://www.jftc.gov.jm).

*In this Issue we feature matters being handled by the FTC.*

---

## **Transport Authority to refund consumers**

Following on several complaints, the FTC and the Transport Authority (TA) agreed that the TA should ensure that it has in its possession proper documentation for all motor vehicles auctioned to the public.

Over the past two years, the FTC received several complaints wherein the TA sold motor vehicles without having proper title or certificates of registration and fitness. Unsuspecting consumers were therefore unable to have available these vehicle transferred into their names. Following discussions between the FTC and the TA, the TA agreed to provide a refund to affected consumers.

## **FTC pursuing Consent Agreements**

The FTC is currently pursuing Consent Agreements with four respondents: a major supplier of appliances, an educational institution, a real estate developer and a provider of eye care products. All four matters relate to possible breaches of section 37 of the FCA, which addresses misleading advertising. With respect to the appliances supplier, the FTC has received complaints that the supplier failed to supply items at the prices at which they were advertised. In the matter concerning the educational institution, the allegations relate to the failure of the institution to honor commitments made to students; while in the case of the real estate developer, house purchasers were not provided with several fixtures which were stipulated in their Sales Agreements. The provider of eye care products has published several advertisements which the Staff of the FTC has determined to be false and/or misleading in a material respect. Matters of this nature affect consumers not only directly but also in an indirect way as they distort the competitive environment within which all enterprises operate.

In general, the FTC enters into Consent Agreements with Respondents, on the recommendation of the Staff, in situations where the Staff believes that the FCA has been breached; where several factors in the Regulations have been considered; and the Respondents are amenable to settling the matter out of Court. These agreements usually require that the Respondent commit to not repeating the offensive conduct, issue a public apology, provide redress to the Informant(s) as well as pay the Commission's costs. The FCA allows for a fine of up to \$5 million in the case of an enterprise and up to \$1 million in the case of an individual, where the Court determines that the FCA has been breached

### **FTC investigates Digicel 4G claims**

In August and September 2010, Claro and LIME respectively, complained that Digicel is engaging in misleading advertising with respect to its WiMAX service. Claro alleged that Digicel's advertisement of WiMAX 4G broadband as being ten times faster than 3G technology is misleading as WiMAX 4G broadband is only two to three times the speed of 3G broadband technology currently being used in Jamaica. Claro alleged also that Digicel's advertisement is misleading with respect to the performance, standard and quality of WiMAX 4G technology.

LIME's complaint concerns Digicel advertising its service as 4G WiMAX. LIME alleged that in September 2010, the International Telecommunications Union (ITU), the body which is responsible for establishing recommendations as to policy and standards for the further development of telecommunication services, indicated that a formal definition for 4G technology was not finalized. LIME is of the view that Digicel cannot accurately say that its service is 4G when there is no international verification of 4G standards.

Given that the matter raises competition concerns in the internet market and falls within the purview of the FCA, the Staff of the FTC has accordingly launched an investigation. The FTC is aware that in December 2010 the ITU issued a press release which confirmed Digicel's classification of WiMAX as 4G. However, the investigation continues as there are other matters to be examined.