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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 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.

In this Issue we feature issues related to the period April 1, 2012 to June 30, 2012.



FTC prevails against Digicel on jurisdiction issue

On May 15, 2012, the Supreme Court held that the FTC has jurisdiction over the Digicel/Claro acquisition agreement; and that the Fair Competition Act (FCA) does apply to the agreement. This means that the FTC can proceed to trial to have the substantive issue heard as to whether the agreement between Digicel and Claro adversely affects competition in the telecommunications market.

Following the FTC's suit in the Supreme Court against Digicel's acquisition of Claro in December 2011, attorneys representing the Defendants, Digicel and Claro, filed an application challenging the FTC's jurisdiction. They sought the Court's ruling on whether the FCA applies generally to the Telecommunications industry, to the acquisition agreement, and to any transactions effected by it.

The Defendants have appealed the Judgment and sought to stay all further proceedings until the Appeal is heard. The Court did not grant a stay and a trial date has been set for May 13 to May 24, 2013. If the Appeal is allowed, the FTC will not be able to proceed to trial unless the matter is further appealed at the Judicial Committee of the Privy Council.

FTC welcomes reduction in termination rates

The FTC notes the recent introduction of new plans by Telecoms providers LIME and Digicel, following the Office of Utilities Regulation's announcement of a pending reduction in call termination rates. Lower termination rates reduce an inherent cost advantage that larger networks have over smaller networks.

It was not surprising, therefore, that LIME was the first to react to the announced rates. Under the new plan of both providers, voice services are more attractive but the data services are less attractive, relative to voice and data packages which were available prior to the announcement. This suggests that subscribers who value voice services over data services may find the new offerings more attractive than those subscribers who prefer data services. To the extent that subscribers can choose to subscribe to the new plans or remain with the old plans, the reduction in termination rates is likely to make at least some subscribers better off without making any subscriber worse off. LIME and Digicel are apparently jostling to remain relevant in the eyes of subscribers who have become accustomed to being courted with attractive promotional offerings in recent times.

OTHER NEWS

Appointment of New Commissioners

Mr. Christopher Samuda, an Attorney-at-Law, has been appointed Chairman of the Fair Trading Commission by the Minister of Industry, Investment & Commerce effective June 2012. The other Commissioners that were appointed are: Ms. Michelle Brown, Dr. Densil Williams and Ms. Deanna Davis. The Commissioners will serve for a period of two years from June 11, 2012 to June 10, 2014.

13th Shirley Playfair Lecture scheduled for September 11th

The 13th Shirley Playfair Lecture will be held at 3:00 pm on September 11, 2012, at the Jamaica Pegasus Hotel. This year's theme is "*Prospects for competition in the electricity sector*". As is customary, the Lecture is open to the general public; and admission is free.