



*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 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](http://www.jftc.gov.jm).

*In this Issue, we feature matters undertaken by the FTC during the period April 1 to June 30, 2013.*

## **FTC signs Consent Agreement with Singer**

In May 2013, the FTC entered into a Consent Agreement with Singer Jamaica Limited (Singer). In 2012, Singer advertised a clearance sale in the Daily Gleaner newspaper where refrigerators were priced as low as \$31,995. The FTC received a complaint that refrigerators in stores were unavailable for less than \$37,000.

The Staff investigated the matter and took the position that Singer's conduct was likely to contravene Section 37 (*Misleading Advertising*) of the Fair Competition Act. Singer admitted that its conduct was in breach of the FCA. In accordance with the Fair Competition (Notices and Procedures) Regulations 2000, the FTC settled the matter by way of a Consent Agreement wherein Singer was required to pay the FTC's cost and issue a public apology. The apology appeared in the Daily Observer of May 17 and 24, 2013.

## **FTC welcomes the distribution of ULSD**

The FTC welcomes the distribution of Ultra Low Sulphur Diesel (ULSD). On June 24, 2013, Petrojam Limited began the supply of ULSD, which has a maximum sulphur content of 15 parts per million (ppm).

In late 2012, the FTC received several complaints from owners of diesel-powered vehicles regarding the negative effect of the high sulphur content diesel on the engine of their vehicle and in February 2013, the FTC issued a report on the issue with recommendations to the Ministry of Science, Technology, Energy and Mining; Ministry of Transport and Works; Ministry of Industry, Investment and Commerce; and the National Environment and Planning Agency. Investigations by the FTC revealed that the newer diesel-powered vehicles are designed to use diesel fuel with very low sulphur content, usually lower than 30 ppm – a fuel that was not available on the Jamaican market.

Currently ULSD is available at over 18 service stations across the island. It is hoped that over time all service stations will sell this fuel.

### **FTC pushes for Gated Community standard**

The FTC, since as far back as 2002, has been receiving complaints from purchasers of housing units, which are advertised as being located in a gated community. They complained that the infrastructure that is provided by the respective developers does not meet their expectation of what they consider to be a gated community.

The Real Estate Board is now in the process of identifying areas of concern regarding gated communities with a view to having legislation to address those concerns. The FTC is on record indicating that its main concern, stemming from consumer complaints, relates to the lack of a standard for classifying housing developments as gated communities. The FTC has asked that issues relating to the maximum number of entrances and exits and the existence of and type of perimeter wall be considered.

### **FTC contributed to the lowering of mobile call rates**

In June 2010, the FTC issued its report documenting the results of its investigation into Digicel's pricing strategy regarding calls terminated on its mobile network. The FTC concluded that Digicel's pricing strategy was likely to substantially lessen competition and harm subscribers of the fixed and mobile voice services. Also, that a lax regulatory environment facilitated the anticompetitive conduct and recommended that the Office of Utilities Regulation (OUR) regulate mobile termination rates.

At the same time, the FTC submitted its opinion to the OUR, on the competitive dynamics of call termination provision, recommending that the remedies outlined in Sections 29-33 of the Telecommunications Act should be imposed on all mobile network operators. This, it was felt, would yield substantial long-term benefits to subscribers as the cost-oriented regulation of mobile termination rates would likely enhance competition.

Arising from these recommendations, the Telecommunications Act was amended on May 24, 2012, to allow for the OUR to set termination rates for all telecommunications providers. Accordingly, the OUR issued a Determination Notice on June 4, 2012, which set an interim termination rate of \$5 per minute, with effect from July 15, 2012. As a result, LIME reduced its retail price for prepaid mobile service from \$12 per minute to \$6.99 per minute; and Digicel reduced its retail price from \$14 per minute to \$6.99 per minute.

In June 2013, the OUR further reduced the termination rate from \$5 per minute to \$1.10 per minute, effective July 1, 2013. Almost immediately, LIME and Digicel announced lower call rates, each having rates of \$2.99 per minute for prepaid service.

## **OTHER NEWS**

### **FTC Competition Law and Policy Courses and Consultancy Services**

To enhance competition culture in the Caribbean, the FTC is now offering courses in Competition Law and Policy to regulators, competition law practitioners, business persons,

judges, economists, attorneys, policy makers and academia. There are three courses: Introductory Course in Competition Law and Policy, Intermediate Course in Competition Law and Policy and Advanced Course in Competition Law and Policy.

The Introductory course will be offered monthly, the Intermediate course will be offered quarterly and the Advanced course will be offered annually. More information on the FTC's Competition Law and Policy Courses and Consultancy Services is available at [www.jftc.gov.jm](http://www.jftc.gov.jm).

### **14<sup>th</sup> Shirley Playfair Lecture for September 2013**

The 14<sup>th</sup> Annual Shirley Playfair Lecture is scheduled for September 12, 2013 at the Jamaica Pegasus Hotel in Kingston, Jamaica. This year's theme is "Vertical Integration: Is there a limit?" The lecture will highlight a growing trend in Jamaica for a manufacturer to expand its operations by participating in markets in which it competes with merchants which use its product as a crucial input. This economic phenomenon has been observed recently in the seafood, poultry and building materials sectors.

The competition implication of vertical integration is not clear cut. Some arrangements may hinder competition while others enhance competition. This year's lecture will explore the causes and consequences of vertical integration, including likely competitive effects. The lecture is open to the general public free of charge and should be of special interest to manufacturers, business persons, lawyers, economists, judges, academics and media personnel.