



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 April 1, 2015 to June 30, 2015.

FTC wins model year case against Crichton

On May 22, 2015 the Supreme Court delivered judgment in the case of Fair Trading Commission v Crichton Automotive Limited. In its judgment the Court found that Crichton Automotive Ltd (CAL) is liable for misleading representation under section 37 of the Fair Competition Act (FCA).

The case had arisen upon the FTC's investigation into an allegation that CAL had misled a customer regarding the model year of a Nissan Sunny motor car. At the time of sale, the car was represented as a 2007 model, but subsequently, valuers, the Island Traffic Authority and Fidelity Motors Limited, the authorized Nissan dealer in Jamaica, confirmed that the motor car is in fact, a 2005 model.

The Court imposed a penalty of \$2 million dollars against CAL for breach of the FCA; and awarded costs to the FTC. In doing so, the Court indicated that it was concerned that CAL had refused to take responsibility for the error. In that regard, there was evidence before the Court that even when CAL was presented with confirmation of the correct model year, it refused to resolve the matter, thereby making court action necessary.

FTC obtains Conditional Leave to apply to Privy Council

Arising from the December 2014, Court of Appeal Judgement in the FTC v Claro/Digicel case, the FTC applied to the Court of Appeal for conditional leave to appear before the Privy Council. Conditional leave was granted on June 10, 2015 and the FTC is now preparing to meet the necessary conditions to obtain Final Leave by September 9, 2015.

This December 2014 Judgement has serious implications for the FTC's ability to carry out its mandate towards the effective administration of competition law in Jamaica. Amendments to the

Fair Competition Act is not being viewed a workable option as the Court has interpreted 'agreements' in a way not defined by the wording of the statute. The problem can therefore be rectified only by a reversal of the Judgment by a Higher Court.

FTC reviews 2004 Code of Conduct for Petroleum Sector

The FTC together with the Ministry of Science Technology Energy & Mining has undertaken a review of the 2004 Report on the Supply of Gasoline in Jamaica, which was done by the FTC. The Report included a proposed Code of Conduct which addressed several issues and areas of concern which existed at the time, in the market for petroleum products. The FTC has been consulting with the petroleum marketing companies and gasoline retailers with a view to arriving at consensus on a Code of Conduct that will ultimately serve to benefit the interest of consumers.

FTC assesses Cemex takeover over of Caribbean Cement Company Limited

The FTC has commenced an assessment of the impact of the acquisition of Trinidad Cement Limited, parent company of Caribbean Cement Company Limited by Cemex on the local cement market. The purpose of the assessment is to determine the effect of the acquisition on competition in the cement market and the implications for Jamaican consumers.

OTHER NEWS

FTC to host 2015 Latin American Competition Forum (LACF) and Competition Day in Montego Bay

The Fair Trading Commission together with the Inter-American Development Bank (IADB) and the Organization for Economic Cooperation & Development (OECD), will be hosting the 2015 LACF; scheduled for September 23 and 24, 2015 in Jamaica, at the Montego Bay Convention Centre.

The LACF is an annual event which brings together competition agencies of Latin America, North America and the Caribbean, for the purpose of discussing topical competition issues. This is the first time that an international conference on competition policy of this nature is being hosted in the English speaking Caribbean; and this will bring added recognition to the FTC on the global sphere.

The LACF will be preceded by Jamaica's Competition Day seminar at which the topic "Transforming Jamaica Digitally: From Flintstones to Jetsons" will be explored. It will begin at 9:00am on September 23 and ends by midday. All are invited to this seminar.