



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

*In this Issue we feature issues related to the period April 1, 2017 to June 30, 2017.*

---

## **FTC Comments on NWC's Proposed Entry into the Bottled Water Market**

The National Water Commission (NWC) is considering entering the bottled water market and the private sector has voiced its concern claiming that the NWC should confine itself to providing efficient service in providing piped water to our citizens.

This begs a larger question: should government entities be allowed to generate income from the private domain for their operations. In such cases the entity would be at a clear advantage by virtue of obtaining Government support through special arrangements, subsidies, preferential tax treatments or other means that are not available to private firms.

While competition rules to address state aid that distorts competition do not exist in Jamaica's competition legislation, the Fair Competition Act provides a benchmark or departure point, for examining these types of matters. Therefore the FTC is able to properly handle the bottled water matter.

## **Study on Port Services**

In May 2017, the FTC launched a study into port services in Jamaica. The study aims to develop recommendations regarding the appropriate infrastructure for the creation of an efficient Special Economic Zones (SEZs).

The establishment of SEZs in Jamaica is expected to realize significant growth in economic activity through increased employment and linkages to the domestic sector. Critical to the success of these zones will be the efficiency of businesses and the infrastructure providing support services to the zones. One such infrastructure is the ports of Jamaica and the activities they are engaged in.

The study is scheduled to be completed by December 2017.

### **Privy Council Appeal – FTC v Digicel & Claro**

On May 3, 2017, Dr. Delroy Beckford, Senior Legal Counsel, appeared before the Judicial Committee of the Privy Council on behalf of the FTC to seek clarification from the Committee on issues relating to: (a) the proper interpretation of the relationship between the Fair Competition Act (FCA) and the Telecommunications Act; and (b) the interpretation of section 17 of the FCA. He was supported by Ms. Wendy Duncan and Mr. Marc Jones, Legal Officers at the FTC.

The matter arose from the Court of Appeal judgment of December 19, 2014 which held that section 17 of the FCA does not apply to agreements or transactions under section 17 of the Telecommunications Act, or to mergers, which implicates a Stock Purchase Agreement between Digicel Jamaica Limited ('Digicel') and Oceanic Digital Jamaica Limited ('Claro'). Attorneys for Digicel and Claro also appeared before the Privy Council and made submissions.

### **FTC Annual Magazine**

The FTC has commenced the process of producing its annual magazine **Compete**, which will be released in January 2018 under the theme, "Competition in agriculture: Does it bear good fruit?". It will examine the various challenges and prospects in the local agricultural sector from a competition and development perspective. The FTC has solicited articles from stakeholders in the agricultural sector.