



**FAIR TRADING COMMISSION**

**ANNUAL REPORT**

**FINANCIAL YEAR 2003/2004**

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**ANNUAL REPORT**  
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***EXECUTIVE DIRECTOR'S REMARKS***

Over the years the number of cases received has risen significantly from **332** in 1999 to **502** in 2003. In 2002, **585** cases were received. This together with the fact that many types of matters hitherto recommended for private action are being pursued, has affected our resolution rate, which decreased from 67% in 1999 to 23% in 2003. Even with the streamlining of investigative procedures, it is expected that the resolution rate will continue to decrease if the number of complaints received continues to increase and the Staff complement remains constant.

Weaknesses in the FCA, which were highlighted in the Court of Appeal Judgement in the Jamaica Stock Exchange v Fair Trading Commission case, prohibited the Commission from properly resolving a number of complaints. Steps have been taken to amend the legislation and to have the weaknesses properly dealt with.

During the year under review, the Commission benefited greatly from the assistance of the New Economy Project (NEP), an arm of the United States Agency for International Development (USAID). The programme which was designed to provide technical assistance to the FTC for capacity building in competition policy, commenced in September 2002, and was completed in February 2004. The objectives were to (a) assist in the restructuring of the FCA to allow effective enforcement against anticompetitive practices; (b) improve the technical capacity of the FTC by formulating and funding a comprehensive skills development programme for the Commissioners and Technical Staff; and (c) improve the Commission's database management system by assisting with the development of a new Case and Workflow Management System.

Consultants of the NEP developed a four-module training programme which fueled significant interest from other public and private sector agencies. This resulted in it being augmented to include other key regulators whose activities relate to the administration of competition policy. Representatives of the Office of Utilities Regulation, the Attorney General's Office, the Chief Parliamentary Council, the Financial Services Commission and the Ministry of Commerce Science & Technology participated. In addition, practising attorneys, economists and students of both disciplines with an interest in Competition Law and Economics were invited to participate.

The programme covered the areas of Economics of competition, Competition Law and Precedents from international experience and Competition issues in regulated industries. The following topics were explored in detail: (a) Industrial Organization and Antitrust Economics; (b) Competition Law: Analysis and Techniques; (c) Competition in Telecommunications, a key area that sought to enhance knowledge in the context of emerging competition in this newly liberalized sector; and (d) Preparation of Cases for Court.

The NEP also provided an Information Management/Technology Specialist to review the document recording and case management system of the Agency and develop business and functional requirements to identify and implement an appropriate IT-based work flow and document management system, customized to meet the requirements of the FTC.

This involved the implementation of a state of the art document and workflow management system that is expected to significantly improve the caseload management of the FTC; reduce the number of inactive cases by about 50% and the time taken to extract data and create reports by about 90%.

The FTC worked with the Trade Board Ltd., the Customs Department, and the Financial Investigation Division of the Ministry of Finance & Planning for the

purpose of establishing standards in the motor vehicle sector and amending the Motor Vehicle Import Policy.

**Barbara Lee (Mrs.)  
Executive Director  
April 20, 2004**

## ***ROLE AND FUNCTION***

The FTC was established in 1993 to administer the Fair Competition Act (FCA). The FCA provides for the maintenance and encouragement of competition in the conduct of trade, business and in the supply of services in Jamaica. Competition leads to optimal allocation of scarce resources while ensuring that the highest quality goods and services are offered for sale at the lowest prices. It also ensures that the greatest incentives exist for product innovation and development. The work of the FTC is critical to the achievement of these objectives.

## ***PRIORITY PROGRAMMES AND TARGETS***

For the Financial Year 2003/2004 the Commission set the following programmes as its main priorities:

- Investigate complaints and seek amicable resolutions where possible. Obtain fees through the use of Consent Agreements, to assist in offsetting costs.
- Initiate legal action for those complaints for which out of Court settlements are not forthcoming and conclude legal matters before the courts.
- Closely monitor furniture, appliance, computer and motor vehicle sectors.
- Prepare and disseminate advisories, opinions and guidelines. Develop and execute media campaigns and organize seminars, workshops and meetings.
- Meet with business entities, trade groups and educational institutions. Educate the private sector (manufacturers and distributors) on the requirements of the FCA and the need to provide adequate information on products and services offered for sale, thereby reducing breaches of the Act.

- Continue to enforce provisions of the FCA as they relate to the Telecommunications Industry.
- Strengthen the Commission's understanding of the reasons for anti-competitive practices and undertake studies on anti-competitive activities.
- Participate in, and organize appropriate forums for policy makers within the Government. Hold meetings with various associations, educational institutions and other Government Agencies and Technical Advisors within the Public Sector.
- Influence the Ministry of Foreign Affairs & Foreign Trade as it seeks to determine Jamaica's competition policy, thereby contributing to the formulation of FTAA, CARICOM and WTO Rules in the area of Competition Law and Policy.
- Participate in discussions with FTAA Negotiating Group on Competition Policy (NGCP).
- Participate in the CARICOM Inter-Governmental Task Force (IGTF) meetings on the finalization of Chapter VIII of the revised Treaty of Chaguaramas, relating to the Rules of Competition.
- Provide technical support in the development of the CARICOM Chapter IX on Disputes Resolution.

## ***HIGHLIGHTS OF PERFORMANCE/ACHIEVEMENTS***

### **Cases Investigated**

Over the period April 1, 2003 to March 31, 2004, a total of 1,064 cases were investigated by the Commission with 244 being completed (See Table 1 for details of cases investigated and completed). This compares with 1,148 cases investigated and 589 being completed in the equivalent period in the previous Financial Year.

A total of 504 cases were received during the Financial Year. Of that number, 413 cases were classified as cases of 'Misleading Advertising' (MA) (See Table 3). Similar to previous periods MA cases accounted for the majority of complaints received, comprising approximately 82% of all cases dealt with. In the previous period 85% of all cases received were cases of MA. Of the 1,064 cases investigated during the Financial Year, 919 or 86% were classified as MA. The majority of Misleading Advertising cases were against Used Car dealers, Furniture/Appliance retailers and Computer retailers who use marketing promotions that attract, but sometimes mislead consumers.

Cases deemed 'Not covered by the FCA' (NA) and 'Other Offences Against Competition' formed the second highest category of complaints received, each accounting for approximately 6% (32 of 504) of the cases received, compared with 8% and 3% respectively, in the previous period.

In comparison to the above categories, each of the others represented a relatively small number of the cases received. One case was received in the category "Double Ticketing", twenty-four (24) in the category "Request for Information/Opinion", and three (3) in the category "Sale Above Advertised Price".

Table 2 provides a listing of the number of Cases Received, Investigated and Resolved for each category of Product or Service.

### **Resolution Rates**

Overall, the Commission successfully completed approximately 23% of the cases investigated during the Financial Year, compared with 51% in the previous Year and 27% in the Year 2001/2002.

The number of cases being investigated increased significantly in the Year 2002/2003 and remained at the same level during the current Financial Year. The number of cases received could be viewed to be a result of the increased level of awareness by the public, of the Commission's role and function. The reduction in the resolution rate was a result of insufficient Staff to handle the complaints. The post of Senior Legal Counsel was vacant for five (5) months of the Year.

Relatively high resolution rates were also recorded in the categories of "Not Covered by the FCA" (NA) and "Requests for Opinion" (32% and 39% respectively). NA cases were expeditiously processed in order to quickly direct the Informants to the correct avenues through which they could obtain assistance; and "Requests for Opinion" were treated as high priority.

Table 4 provides a comparison of the Commission's Performance/Achievements Against Targets.

### **Major Cases Investigated**

The Commission pursued a number of matters in the Courts during the 2003/2004 Financial Year and continued to enforce provisions of the FCA specifically as they relate to the Telecommunications Industry. Other matters



investigated include complaints against Key Motors Limited, The Warehouse and Airlines' advertisements.

## **Out-of-Court Settlements**

### **Gotel Communications Limited**

During the period June 2003 to August 2003 numerous complaints were made by Informants against the Respondent in respect of its services. The Informants alleged that they had applied to the Respondent for telephone and/or internet service and were promised that delivery would be made between six and eight weeks. The Respondent failed to deliver the services within the time represented.

Following an investigation into the marketing activities of the Respondent, it was concluded that in all instances, the Respondent's conduct breached Section 37 of the Fair Competition Act (FCA) which prohibits businesses from making false or misleading representations to the public.

The Respondent agreed that it had breached the aforementioned provision of the FCA in respect of the complaints. The Staff is currently in the process of completing a Consent Agreement to be signed by the respective parties.

### **Guidelines for Telecommunications Industry - Rules of Conduct in Advertising**

During the year the Staff received an increased number of complaints relating to allegations of misleading advertising in the telecommunications industry. Generally, in respect of the industry, a total of 54 complaints were received in 2002/2003 compared to 79 received in 2003/2004. This reflects an increase of 23.4%.

As a result of the increased number of complaints, the FTC invited representatives from the three (3) leading companies in the telecommunications industry, to discuss and pursue the possibility of formulating a code of conduct for advertising. A meeting was held on October 1, 2003 and representatives of Cable and Wireless Jamaica Limited, Oceanic Digital, and Digicel were present. All parties were amenable to the formulation of a code of conduct and several proposals were made. These include the following:

1. Parties would agree to withdraw offensive advertisements upon complaint by a party; and such withdrawal should be done within 24 hours; failing which the FTC would be consulted as a last resort.
2. Each party would appoint a specific representative with designated telephone numbers to deal with complaints relating to advertising.
3. The code should cover situations in which advertisements are technically correct and the information is sound, but the approach is unprofessional.
4. Parties should approach each other instead of carrying out an acrimonious bantering in the media.

The details of the proposals are to be finalised and the Agreement/Code drafted and vetted.

### **Airline Advertising**

Arising out of a complaint regarding a 53% increase in the cost of an airline ticket after applicable taxes and other charges were added to the advertised price, the Staff began an investigation into rates and charges applied by all major airlines operating out of Jamaica.

The investigation revealed that airlines were advertising fares without disclosing the relevant taxes and levies. The Staff held a meeting on January 26, 2004, with representatives from the individual airlines and the Board of Airline Representatives of Jamaica at which all parties agreed that as of March 1, 2004, all airline advertisements would as far as possible reflect the total cost of an airline ticket. The general wording required to effect the change was also agreed on. On March 11, 2004, the Staff issued a Press Release to announce the agreement.

### **Drug Serv Pharmacy Limited**

The Jamaica Association of Pharmacy Owners submitted a complaint with respect to an advertisement placed by Drug Serv Pharmacy Limited in the Daily Gleaner of June 16, 2003 and in the 2004 Cable and Wireless Telephone Directory. The advertisement states that Drug Serv prices are “on the average 30% - 40% below the average market price.” Drug Serv claimed that its price claim is based on quarterly price surveys which it conducted. Following an investigation, the Commission concluded that the advertisement was misleading because: (a) the number of drugs (18) and pharmacies (21) used in the surveys which were relied upon in making the claim that its prices are lower than the average market price, were too small a sample and were not a true indication of the market; and (b) the length of time between the dates of the surveys and the date of the advertisement was too long.

A Consent Agreement was negotiated between the FTC and the Health Corporation Limited, the parent company of Drug Serv Pharmacy Limited, whereby Health Corporation Limited agreed to issue a public statement on a quarterly basis by way of the Daily Gleaner informing the public that the relevant advertisement was considered to be misleading. The first statement was issued on February 7, 2004. Health Corporation also agreed to pay the Commission \$200,000.00 in settlement of the costs associated with the investigation.

## **Court Matters**

### **FTC v. Pyramid Roofing Systems**

The FTC received a complaint against Pyramid Roofing Systems. The Informant alleged that she contracted the Respondent to install a new roof on her house, but the job was badly done, resulting in leaks and a generally poor appearance of the roof.

An Originating Motion was filed in the Supreme Court by the FTC seeking a declaration that the Respondent had breached Section 37 of the Fair Competition Act. On June 12, 2001, when the matter was heard, the Court granted the Declaration and made an Order that the Respondent pay a fine of \$700,000.00. The FTC is in the process of executing the Order.

### **FTC v SBH Holdings Limited & Forest Hills Joint Venture Limited**

The Informants alleged that they purchased townhouses from the Respondent developers after reading pamphlets and brochures promising, among other facilities, a swimming pool, tennis court and a clubhouse. The facilities promised were not provided.

The matter was heard on September 27 to 28, 2001. Judgement was handed down on July 19, 2002, in favour of the Respondents. The FTC filed Notice of Grounds of Appeal in the Court of Appeal on August 5, 2002. The appeal was heard during the period January 19 to 22, 2003. The Court's decision is being awaited.

### **FTC v. Airtight Security Limited**

The FTC alleged breach of Section 37 of the Fair Competition Act (FCA) by the Respondent as it failed to honour the warranty given on electronic gates. The Informants had paid the Respondent over Five Hundred Thousand Dollars (\$500,000.00) to install and maintain the gates.

The matter was heard on September 28, 2001; and the Respondent was found to be in breach of the FCA. A fine of One Hundred Thousand Dollars (\$100,000.00) was imposed. The FTC is attempting to have the Judgement executed.

### **FTC v The Warehouse Limited**

During the period December 1993 to November 2003 the FTC received eighty-one (81) complaints against The Warehouse Ltd.. The Informants claimed to have purchased various items of furniture from the Defendant and the required deposits ranging between Eight Thousand Dollars (\$8,000) and Thirty Eight Thousand Dollars (\$38,000) were paid. At the various times of purchase, The Warehouse promised to deliver the items between 7 and 14 days.

In many instances the items were not delivered and in those instances where the items were delivered, the delivery times went far beyond the dates agreed at the time of purchase. At the beginning of November 2002, The Warehouse continued to accept deposits and to make representations to the public regarding delivery times. On or about mid-November 2002, many of the Informants went to two of the outlets and found that the entrances were padlocked. Most of the Informants have been unable to contact anyone who can assist them in either recovering their goods or their money.

As a result, some Informants submitted formal complaints. The FTC filed suit on December 2, 2003. The date for first hearing was set for March 23, 2004 in the Supreme Court.

### **FTC v Key Motors Limited**

Between October 1999 and June 2003, the FTC received at least thirty-seven (37) complaints against the Respondent Company. The Informants alleged that they purchased Hyundai motor vehicles of varying models from the Respondent at various times, for which they all obtained manufacturer's warranties. The dashboards of the vehicles all started cracking in a short time and it was proven to be a manufacturer's defect. The Respondent has been tardy in replacing the dashboards (the average time for replacement has been up to 1 year from notification by the Informant) and the Staff continues to receive complaints.

On October 13, 2003 a suit was filed in the Supreme Court against the Respondent seeking, among other things, a declaration that the Respondent has breached Section 37 of the FCA. The matter came up for hearing on February 26, 2004, and was adjourned to May 4, 2004. In the meantime discussions are being held, toward arriving at a settlement under a Consent Agreement.

## ***PUBLIC EDUCATION PROGRAMMES AND MEDIA CAMPAIGNS***

The FTC continued to inform and educate the public on issues related to competition law and policy. During the 2003/2004 Financial Year the Commission rendered opinions and provided guidance in respect of (a) the delineation of relevant markets affected by the termination of Stevedoring Company's right of access to Kingston Wharves Ltd.'s port facilities; (b) Competition issues regarding the operation of Caymanas Track Ltd. and licensed bookmakers; (c) dominant voice carriers; (d) a proposal to establish a single exchange rate to be used by all agents of MoneyGram. The Commission also met with various associations and companies. These include the Trade Board Limited, Financial Investigation Division of the Ministry of Finance & Planning, the Ministry of Education, Registrar General's Department, New Line Motors Limited, Jamaica Veterinary Medical Association, Dental Auxiliary School, Bureau of Standards, Port Authority of Jamaica, Office of Utilities Regulation, Westmoreland Credit Union. Other avenues for public education activities took the form of press conferences, press releases and advisories, television and radio interviews, seminars/workshops and addresses given by the Executive Director and other members of Staff to service clubs and tertiary institutions.

The fourth lecture in the Shirley Playfair Lecture Series was held on September 11, 2003, at the Knutsford Court Hotel. It was one of the events held during the week of September 6<sup>th</sup> to 13<sup>th</sup>, to commemorate the Tenth Anniversary of the Fair Trading Commission (FTC). The Lecture was presented by Dr. James Mathis, Lecturer at the Amsterdam Law School and Law School Instructor in the Department of International Law, University of Amsterdam. Dr. Mathis holds Consultancy positions with the United Nations Conference on Trade and Development (UNCTAD), the Commission of the European Communities (EC), the African, Caribbean and Pacific (ACP) Group and Consumers International, London.

The Lecture was aimed at a general audience and was entitled "Competition and Regulatory Policies in the WTO: Implications of a Multilateral Competition Policy Framework". The one hundred and twenty-three (123) persons who were in attendance included members of the business community, the legal fraternity, academia; journalists and representatives of various Government Ministries and Agencies. Dr. Mathis appeared on several radio and television talk shows.

The other events which were held to commemorate the Commission's Tenth Anniversary were (a) Consumer Outreach at the Mandeville Shopping Centre; (b) Church Service at the Boulevard Baptist Church; (c) Media Breakfast; (d) Chat Room on Gleaner's gojamaica.com; (e) Dinner/Dance, held at the Terra Nova Hotel; and (e) Essay Competition open to Sixth Form students of High Schools. The Jamaica Information Service was employed to assist with the promotion of the Lecture and the other events held to commemorate the Commission's Tenth Anniversary.

On April 2<sup>nd</sup> to 4<sup>th</sup>, 2003, the Commission hosted a World Trade Organisation (WTO) Regional Workshop on Competition Policy, Economic Development and the DOHA Mandate. It was attended by members of CARICOM states, members of the local business community and academia and the technical Staff of the FTC. The workshop was fully funded by the Inter-American Development Bank and the presenters were provided by the WTO.

The Staff also participated in (a) Consumer Affairs Commission's programme on the subject of Genetically Modified Goods; (b) a workshop hosted jointly by the Jamaica Conference Board and the Briefing Room, entitled "Civil Society's relationship with the FTAA process"; (c) Internet Forum, an Economist presented on the subject of "Competition Issues in the Provision of Network Access; (d) Scientific Research Council's Conference, the Executive Director presented on "Competition Advocacy for a Knowledge-based Society; (e) OUR Symposium –



“Provision of Quality Service by Jamaica’s Utility Providers: fact or fiction?”, at which the Executive Director served as moderator.

The Executive Director, Senior Legal Counsel, Legal Officer, Economists and Complaints Officers all spoke on radio talk shows like Nationwide, The Breakfast Club, Drive Time Live, Straight Talk, First Edition, You & the Law and on the radio station Irie FM. A wide-ranging number of competition and consumer related issues were discussed. The Staff also made presentations to students of various secondary and tertiary level institutions.

The December 2003 issue of the Commission’s annual Newsletter was published and circulated to various interest groups.

The Commission maintained its high level of Public Education campaign and continued to participate in both local and international events. The events, activities and programmes during the year were well received by the target audiences.

## ***ECONOMIC STUDIES***

In addition to investigations into the Pharmaceutical Industry, the FTC conducted investigations into (a) the competition issues regarding the opening hours of licensed bookmakers vis a vis that of Caymanas Track Limited; (b) the delineation of relevant markets affected by the termination of Stevedoring Co's right of access to Kingston Wharves Ltd.'s port facilities; (c) a proposal to establish a single exchange rate to be used by all agents of MoneyGram; (d) whether or not the National Health Fund is in contravention of the FCA.

### **Major on-going investigations**

Currently, investigations are being conducted into the markets for electronic money transmission and cambio services, to determine specifically whether the practice of tied selling exists in these markets; and services provided by the Telecommunications sector. The FTC has been instructed to create a Code of Conduct to apply to the various players in the petroleum sector.

## ***PARTICIPATION IN THE DEVELOPMENT OF TRADE POLICIES***

During the Financial Year 2003/2004, the FTC participated in meetings of the Jamaica Trade and Adjustment Team (JTAT), the CARICOM Community Secretariat meeting to review the Draft Model Law on Competition Policy and the CARICOM pre-Cancun meeting on WTO issues in Competition.

Submissions were made on issues such as (a) the liberalization of the telecommunications industry; (b) Draft Model Law on Competition produced by the United Nations Conference for Trade & Development (UNCTAD); (c) technical assistance towards negotiating FTAA Rules and their implementation; (d) technical assistance in WTO negotiations and rules implementation.

The Commission also provided information and support Staff to the Sir Arthur Lewis Institute of Social & Economic Research for a research project on Trade/Competition issues in CARICOM countries.

In addition to hosting the WTO Regional Workshop on Competition Policy, Economic Development and the DOHA Mandate, the Staff attended and/or presented at international seminars or workshops hosted by UNCTAD, Organisation for Economic Co-operation Development (OECD), Eastern Caribbean Telecommunications Authorities (ECTEL), Sir Arthur Lewis Institute of Social & Economic Studies (SALISES), International Competition Network (ICN), Bundeskartellamt, the German Competition Agency. The subjects/themes of these seminars included “Regional Seminar for Latin America and Caribbean Countries on the Post-DOHA WTO Competition Issues” (hosted by UNCTAD), “Joint Global Forum on Trade and Competition”, “Selecting, Preparing and Winning Competition Law Cases”, “The Objectives of Jamaica’s Competition Law and the Design of the FTC”, “Special Aspects of Competition Policy in Small Economies” and “First Latin American Competition Forum” (hosted by OECD),

“Competition and Pricing in the Telecommunications Industry” (hosted by ECTEL), “Workshop on Negotiating Skills” (hosted by SALISES), “Second Annual ICN Conference” (hosted by ICN), and “Eleventh International Conference on Competition” (hosted by Bundeskartellamt).

Papers entitled “Challenges/Obstacles Faced by Competition Authorities in Achieving Greater Economic Development through the Promotion of Competition” and “How Enforcement against Private Anti-Competitive Conduct has Contributed to Economic Development”, were submitted to the Global Forum on Competition hosted by the OECD.

It must be noted that participation at these seminars and conferences was fully funded by either the hosting entity or an international funding agency.

## ***LEGISLATION/REGULATIONS***

As set out in our submission for the Ministry Paper of March 2002, drafting instructions for Regulations to be established under Section 40 of the FCA were prepared and submitted to the Ministry.

Progress on the enactment of the Regulations referred to above as well as amendments to the Fair Competition (Notices and Procedures) Regulations, 2000, was slowed to advance the Commission's efforts to have the Act amended. Drafting instructions for procedural guidelines which would lend certainty and transparency to the Commission's investigative procedures were submitted to the Ministry in July, 2001. This process too has been delayed, pending amendments to the Act.

Detailed and extensive proposals for amending the Act, to cure the jurisdictional dilemma highlighted in the Jamaica Stock Exchange case were submitted to the MCST in July 2002. An opportunity was provided for several stakeholders to contribute to the ensuing discussions. Responses have now been obtained from the Legal Reform Department and from the Solicitor General.

## **BUDGETARY ALLOCATION**

For the Financial Year 2003/2004, the Commission was allocated \$41.9M by the Ministry of Commerce Science and Technology. The Commission's Recurrent Expenditure for the Financial Year totaled \$35.8M, in line with the actual amount of \$36.0M that was disbursed by the Ministry.

This reduction in the allocated amount resulted in changes in planned programmes such as the restructuring of a project to purchase and upgrade our computer equipment, the upgrading of our Library, the deletion of our plans to increase the technical capacity of our Staff through various training seminars and workshops and the hiring of additional personnel.

### **Budgetary Proposal For 2004/2005**

The following table summarises the Budgetary Request for the Financial Year 2004/2005 and the actual amounts spent in each of the previous three (3) Financial Years.

<b>Object</b>	<b>2004/2005 Proposal</b>	<b>2003/2004 Actual</b>	<b>2002/2003 Actual</b>	<b>2001/2002 Actual</b>
Compensation of Employees	33,345,587	25,733,585	24,652,702	23,726,175
Travel Expense & Subsistence	2,571,988	2,057,986	1,632,161	1,187,675
Rental Of Bldg., Machinery & Equip.	3,084,828	3,096,670	2,866,196	2,895,547
Public Utility Services	913,120	910,999	769,195	709,390
Purchase of other Goods & Services	1,968,592	3,557,179	2,469,565	2,678,182
Asset Purchases	306,000	489,071	76,623	301,351
<b>Totals</b>	<b>42,190,115</b>	<b>35,845,490</b>	<b>32,466,442</b>	<b>31,498,320</b>

## ***SUMMARY OF MAIN PROGRAMMES FOR 2004/2005***

For the Financial Year 2004/2005, the Commission has established as its prime goals the following: -

- Competition Advocacy – for example, coordinating activities with the Consumer Affairs Commission, the Bureau of Standards of Jamaica and the Ministry of Education.
- Facilitating the training of the Judiciary.
- Influence innovation and encourage improvements in services provided to consumers thereby improving competitiveness among all players in the market. Educate manufacturers and distributors as to the need to provide adequate and relevant information on products and services offered for sale.
- Achieve a wider level of understanding of the FTC and the FCA by consumers, the business community, the media and policy makers within Government thereby improving competitiveness among players in various sectors. Focus on the business community, to educate them on their responsibilities under the FCA, thereby reducing breaches of the Act.
- Influence the Ministry of Foreign Affairs & Foreign Trade as it seeks to keep Jamaica's competition policy relevant, thereby contributing to the formulation of FTAA, CARICOM and WTO Rules in the area of Competition Law and Policy.

## ***STRATEGIC FOCUS FOR THE MEDIUM TO LONG TERM***

Strategies to be employed include:

- Initiating investigation into complaints within fifteen (15) working days;
- Monitoring the market by keeping abreast of developments so that investigations can be initiated in the absence of complaints;
- Prosecuting breaches of the FCA in accordance with in-house rules and procedures;
- Increasing public awareness through Public Education with specific emphasis on the media;
- Undertaking industry studies as resources allow, to determine competitiveness;
- Disseminating information on the FTC directly to Government Ministries and also in the print, video, audio and electronic media;
- Participating in seminars, workshops and meetings with Government policy makers, various associations, community groups and educational institutions;
- Focusing on the business community to educate merchants on their responsibilities under the FCA, thereby reducing breaches of the Act;
- Attending Free Trade Area of the Americas (FTAA) and CARICOM Inter-Governmental Task Force (IGTF) Meetings;
- Financial assistance being available, attend International Seminars, specifically those hosted by other Competition Agencies, the International Competition Network (ICN), the United Nations Conference on Trade and Development



(UNCTAD) and the Organization for Economic Co-operation and Development (OECD).;

- Provide timely opinions to the Ministry of Foreign Affairs and Foreign Trade or various other Ministries, on sundry matters.

**Table 1**

**CASES RECEIVED, INVESTIGATED AND CLOSED  
CATEGORIZED BY BREACH  
FOR THE PERIOD APRIL 1, 2003 - MARCH 31, 2004**

<b>BREACH / INVESTIGATION</b>	<b>Received</b>	<b>Investigated</b>	<b>Resolved</b>
Abuse of Dominant Position	-	2	1
Application for Authorization	-	-	-
Double Ticketing	1	1	1
Investigation Initiated by the FTC	-	1	-
Market Restriction	-	-	-
Misleading Advertising	413	919	205
Not covered by the FCA	32	50	16
Other Offences Against Competition	31	51	7
Request for Information/Opinion	24	36	14
Sale Above Advertised Price <sup>1</sup>	3	4	-
Tied Selling	-	-	-
<b>TOTAL</b>	<b>504</b>	<b>1064</b>	<b>244</b>

<sup>1</sup> Includes Failure to supply at a bargain price

**Table 2**

**CASES RECEIVED, INVESTIGATED AND CLOSED  
CATEGORIZED BY BREACH  
FOR THE PERIOD APRIL 1, 2003 - MARCH 31, 2004**

<b>PRODUCTS AND SERVICES</b>	<b>Received</b>	<b>Investigated</b>	<b>Resolved</b>
Airline Services	6	20	2
Auto Parts & Accessories	7	17	6
Automobiles	115	262	65
Banking Services	8	14	2
Business Practices	5	7	1
Clothing & Accessories	15	32	11
Computers & Computer Accessories	16	60	18
Construction/Home Repairs	5	13	1
Education(al)/ Fees and Services	14	32	3
Electronics	8	9	1
Financial Services	15	35	14
Food Items and Supplements	9	22	4
Gaming and Contests	1	5	1
Hardware Products	10	20	3
Household Appliances and Appliances	56	133	36
Household Furnish./Fixtures/ Supp./ Misc.	26	70	12
Industrial Equipment & Machinery	3	11	1
Insurance <sup>2</sup>	6	12	2
Media	9	13	5
Office Furnishings and Equipment	1	5	-
Petroleum Product and Accessories	5	9	3
Professional and Specialist Services	12	20	2
Real Estate	3	12	5
Services - Other <sup>3</sup>	11	19	5
Telecommunication Services/Equipment	94	146	25
Transport	2	6	-
Utilities	4	6	1
Other	38	54	15
<b>TOTAL</b>	<b>504</b>	<b>1064</b>	<b>244</b>

<sup>2</sup> Insurance includes Insurance, Insurance Claim, Life and Health Insurance

<sup>3</sup> Services – Other includes Advertising, Medical, Courier and Employment Services

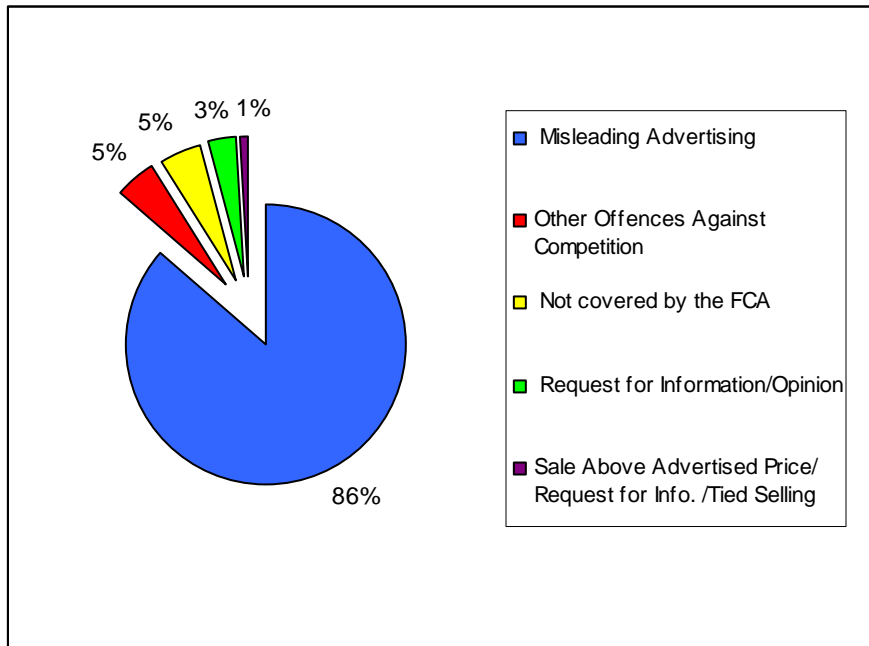
**Table 3**

**TOP 10 CATEGORIES OF CASES OF MISLEADING ADVERTISING RECEIVED  
(CATEGORIZED BY PRODUCT)  
FOR THE PERIOD APRIL 1, 2003 - MARCH 31, 2004**

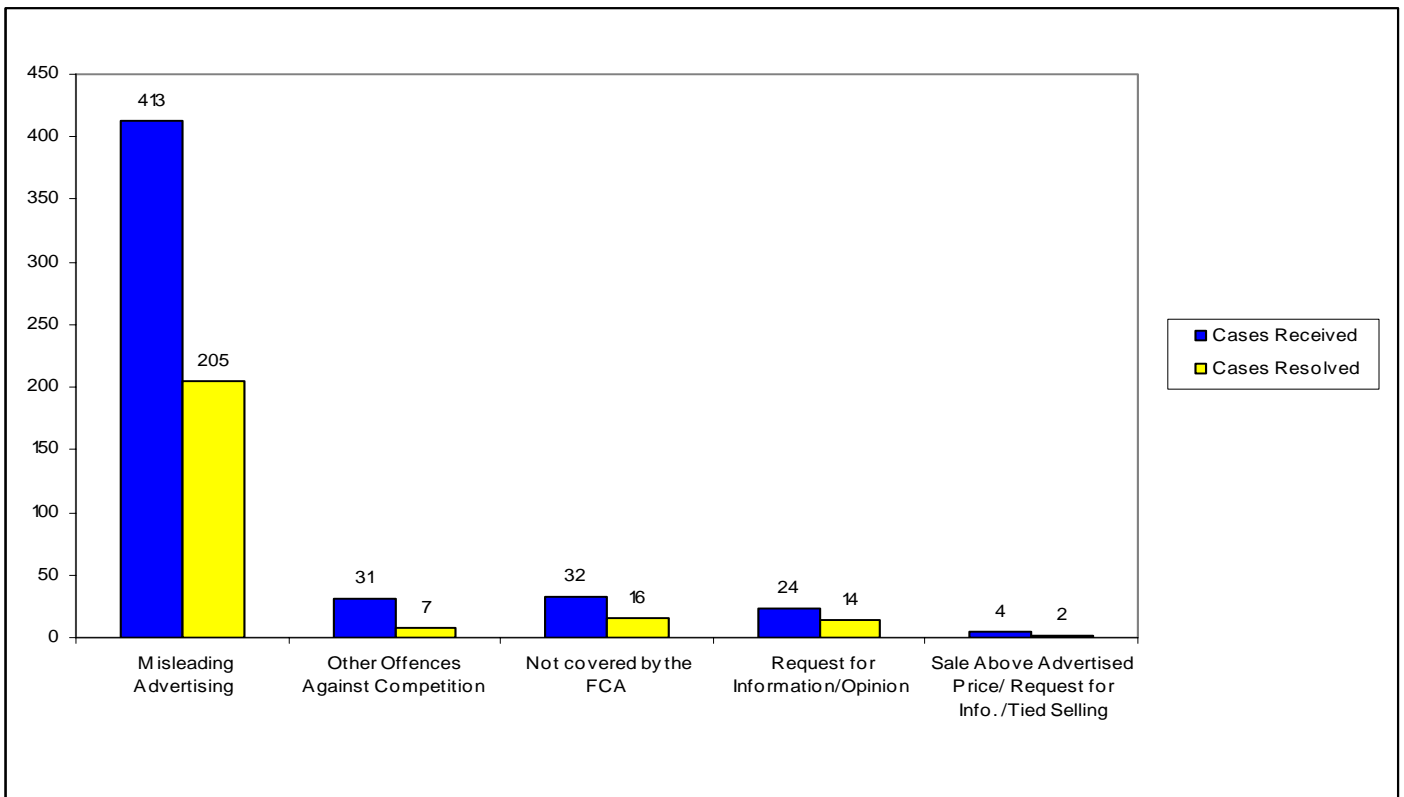
<b>PRODUCTS AND SERVICES</b>	<b>Received</b>
Automobiles	111
Telecommunication Services/Equip.	73
Household Appliances and Appliances	54
Household Furnish./Fixtures/ Supp./ Misc.	24
Computers	14
Education(al)/ Fees and Services	12
Clothing & Accessories	11
Financial Services	11
Hardware Products	9
Professional and Specialist Services	9

**Figure 1**

**CASES INVESTIGATED (CATEGORIZED BY BREACH)  
FOR THE PERIOD APRIL 1, 2003 - MARCH 31, 2004**



**CASES RECEIVED AND RESOLVED (CATEGORIZED BY BREACH)  
FOR THE PERIOD APRIL 1, 2003 - MARCH 31, 2004**



**Table 4**

The following table compares the Commission's actual performance with its targets for the Financial Year 2003/2004.

<b>Final Output</b>	<b>Target</b>	<b>Actual performance</b>
1. Resolve complaints received regarding breaches of the FCA in a timely manner.	Forty percent (40%) resolution rate for complaints investigated during the Financial Year.	23%
2. Reduce the incidence of anti-competitive cases in specific sectors.	2(a) A minimum of twelve (12) press statements issued per year.	Eight (8) press statements issued.
3. Influence innovation which will result in improved services provided to consumers and improved competitiveness among all players in the market.	3(a) A minimum of ten (10) publications (advisories/opinions/guidelines) issued per year.	Nine (9) publications issued.
	3(b) Three (3) seminars/workshops hosted by the FTC during the year.	Six (6) seminars/workshops hosted.
	3(c) Four (4) meetings with business entities/trade groups and educational institutions with a view to reducing anti-competitive practices by addressing the nature of complaints directly.	Eleven (11) meetings held with these groups.
	3(d) Two (2) workshop or meeting with Government policy makers or Govt. Depts. during the Financial Year.	Three (3) meetings with Govt. Agencies/ Departments. No workshops hosted.
4. Influence the Ministry of FA & FT on Jamaica's competition policy, thereby contributing to the formulation of FTAA, CARICOM and WTO Rules.	4. Participation in FTAA Negotiating Group on Competition Policy; CARICOM IGTF meetings on the finalization of Chapter VIII relating to the Rules of Competition and Chapter IX relating to Disputes Resolution; attendance at international fora on Competition Law & Policy.	4. All FTAA and JTAT meetings attended. Attended seven (7) fully funded international seminars – presented at five (5) seminars. Submissions made on five (5) subject areas.

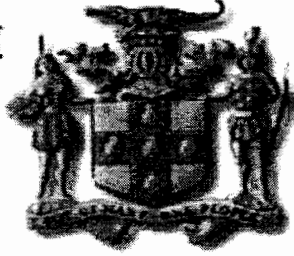
# FAIR TRADING COMMISSION

## SCHEDULE OF EMOLUMENTS OF SENIOR OFFICERS

<b>Post</b>	<b>Basic Salary p.a. (inclusive of Taxable Allowances)</b>
Executive Director	\$3,126,246
Senior Legal Counsel	2,218,964
General Manager	2,190,147

Note that:

- a) A Gratuity of 25% of Basic Salary is paid annually.
- b) Motor Vehicle Allowance of \$341,220 per annum is paid to all Senior Officers.



**Fair Trading Commission**



**Audited Financial Statements  
year ended March 31, 2004**

FAIR TRADING  
COMMISSION

MAR 07 2006

RECEIVED

FAIR TRADING  
COMMISSION

MAR 07 2006

LOGGED



# Fair Trading Commission



## OUR MISSION

### INTRODUCTION

The FTC was established in 1993 to administer the Fair Competition Act (FCA). The FCA provides for the maintenance and encouragement of competition in the conduct of trade, business and in the supply of services in Jamaica. Competition leads to optimal allocation of scarce resources while ensuring that the highest quality goods and services are offered for sale at the lowest prices. It also ensures that the greatest incentives exist for product innovation and development. The work of the FTC is critical to the achievement of these objectives.

### MISSION STATEMENT

To provide for the maintenance and encouragement of competition in the conduct of trade, business and in the supply of services in Jamaica, with a view to providing consumers with competitive prices and product choices.

**A Fair Deal, Your Right by Law**

**FAIR TRADING COMMISSION  
AUDITED  
FINANCIAL STATEMENTS  
YEAR ENDED 31ST MARCH 2004**


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**AUDITOR GENERAL'S REPORT**  
**ON THE FINANCIAL STATEMENTS OF**  
**THE FAIR TRADING COMMISSION**

I have audited the Balance Sheet of the Fair Trading Commission as at March 31, 2004 and the related statements of Income and Expenditure and Cash Flows for the year then ended. These financial statements are the responsibility of the Commission's Directors and Management. My responsibility is to express an opinion on these financial statements based on my audit.

I conducted my audit in accordance with the auditing standards issued by the International Organization of Supreme Audit Institutions (INTOSAI). Those standards require that I plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management as well as, evaluating the overall financial statements presentation. I believe that my audit provides a reasonable basis for my opinion.

In my opinion proper accounting records have been kept and the financial statements mentioned above which are in agreement therewith give a true and fair view of the financial position of the Fair Trading Commission as at March 31, 2004 and of the results of its operations and cash flows for the year then ended in accordance with Generally Accepted Accounting Standards and comply with the provisions of Section 13(11) of the Fair Competition Act 1993.

  
Auditor General  
3/3/2006

**FAIR TRADING COMMISSION  
BALANCE SHEET  
AS AT 31st MARCH 2004**

II

	<u>Notes</u>	<u>2004</u>	<u>2003</u> Restated
		\$	\$
<b><u>Non-Current Assets:</u></b>			
At Cost Less Aggregate Depreciation	(2b & 4)	2,384,775	1,292,136
<b><u>Current Assets:</u></b>			
Receivables		246,124	118,915
Prepayments		69,938	89,988
Fixed Deposits		1,900,000	-
Cash & Bank Balances		530,744	209,288
		<u>2,746,806</u>	<u>418,191</u>
<b><u>Current Liability:</u></b>			
Accounts Payable		1,945,141	1,276,415
		<u>1,945,141</u>	<u>1,276,415</u>
Net Current Assets		801,665	(858,224)
<b>NET BOOK WORTH</b>		<b><u>3,186,440</u></b>	<b><u>433,912</u></b>
<b><u>REPRESENTED BY:</u></b>			
Capital Fund	(5)	2,384,775	1,292,136
Revenue - Accumulated Surplus/(Deficit)		801,665	(858,224)
		<b><u>3,186,440</u></b>	<b><u>433,912</u></b>

Peter-John Gordon CHAIRMAN

[Signature] COMMISSIONER

The accompanying notes on V form an integral part of these financial statements and must be read in conjunction with them.

**FAIR TRADING COMMISSION  
INCOME AND EXPENDITURE STATEMENT  
YEAR ENDED 31st MARCH 2005**

**III**

	<u>Notes</u>	\$	<u>2004</u> \$	<u>2003</u> \$
<b>Income:</b>	(2c)			
Government Grant		39,073,634		31,386,654
Other Income		449,073		104,402
Appropriations in Aid Fund	(2d)	140,000		239,664
Transfer from G.O.J. Capital Grant		<u>1,027,254</u>		<u>1,289,614</u>
		40,689,961	40,689,961	33,020,334
 <b>Expenses:</b>	 (2c)			
Salaries & Other Staff Costs		26,696,788		22,546,631
Travelling & Transportation		2,574,907		1,939,927
Rental		3,247,812		2,865,168
Utilities		822,033		715,995
Professional Services		3,402,440		3,575,491
Printing & Stationery		333,553		327,363
Postal & Cable		25,250		48,829
Subscriptions		49,389		47,973
Office & General Expenses		173,330		146,898
Repairs & Maintenance		115,573		12,330
Depreciation		1,027,254		1,289,614
Official Entertainment		4,478		
Staff Welfare		236,040		183,392
Bank Charges		28,015		23,896
Miscellaneous Expenses		94,975		315,349
Insurance		<u>215,698</u>		<u>249,782</u>
			<u>39,047,535</u>	<u>34,288,638</u>
 Net Surplus/(Deficit) For The Year			1,642,426	(1,268,304)
 Surplus At The Beginning Of The Year			(858,224)	410,080
Prior year adjustments			<u>17,463</u>	
 <b>Accumulated Surplus/(Deficit) At The End Of The Year</b>			<u><b>801,665</b></u>	<u><b>(858,224)</b></u>

The accompanying notes on V form an integral part of these financial statements and must be read in conjunction with them.

**FAIR TRADING COMMISSION  
STATEMENT OF CASH FLOWS  
YEAR ENDED 31ST MARCH**

**IV**

	<b><u>2004</u></b>	<b><u>2003</u></b>
	\$	\$
<b>Cash Flows From Operating Activities:-</b>		
Net Surplus / (Deficit) Per Accounts	1,642,426	(1,268,304)
Adjustments to reconcile income for the year to net cash provided by operating activities:		
Prior year Adjustment	17,463	
Depreciation	1,027,254	1,289,614
Transfer from G.O.J. & USAID Capital Grant	(1,027,254)	(1,289,614)
Profit on disposal of Non-Current Assets	-	-
	<u>1,659,889</u>	<u>(1,268,304)</u>
(Increase)/Decrease in Current Assets		
Receivable	(127,209)	(24,786)
Prepayments	20,050	(18,731)
Increase/(Decrease) in Current Liability		
Payable	<u>668,726</u>	<u>(132,553)</u>
Net Cash Provided By Operating Activities	<u>2,221,456</u>	<u>(1,444,374)</u>
<b>Cash Flows From Investing Activities:-</b>		
Purchase Of Non-Current Assets	(2,119,893)	(56,347)
Proceeds from disposal of Non-Current Assets		
Net Cash Used In Investing Activities	<u>(2,119,893)</u>	<u>(56,347)</u>
<b>Cash Flows From Financing Activities:-</b>		
Capital Fund	<u>2,119,893</u>	<u>56,347</u>
Net Cash Provided by Financing Activities	<u>2,119,893</u>	<u>56,347</u>
<b>Net Increase/(Decrease) In Cash And Cash Equivalents</b>	2,221,456	(1,444,374)
<b>Cash andCash Equivalents At The Beginning Of The Year</b>	<u>209,288</u>	<u>1,653,662</u>
<b>Cash and Cash Equivalents At The End Of The Year</b>	<b><u>2,430,744</u></b>	<b><u>209,288</u></b>
<b>Represented by</b>		
Certificate of Deposit	1,900,000	
Cash and Bank Balances	530,744	209,288
	<b><u>2,430,744</u></b>	<b><u>209,288</u></b>

The accompanying notes on V form an integral part of these financial statements and must be read in conjunction with them.

**NOTES TO THE FINANCIAL STATEMENTS  
YEAR ENDED 31ST MARCH 2004**

---

1. **IDENTIFICATION:**

(a) **The Commission:-**

The Fair Trading Commission was established to enforce the regulations of the Fair Competition Act which was enacted 9th March, 1993 and became effective on the 9th September, 1993.

(b) **Main Objectives:-**

The main activity of the Fair Trading Commission is the maintenance and encouragement of competition in the conduct of trade, business and services, with a view to providing consumers with competitive prices and market choices.

(c) **Taxation:-**

Government grant receipts are not taxable income. Other receipts are exempt from Income Tax, as per Section 12(h) of the Income Tax Act.

2. **SIGNIFICANT ACCOUNTING POLICIES:**

(a) **Accounting Convention:-**

These financial statements are prepared under the Historical Cost Convention and are expressed in Jamaican dollars.

(b) **Depreciation:-**

Depreciation is calculated on the straight line basis at rates calculated to write off the assets over their estimated useful lives. Rates applied in these financial statements are:

Motor Vehicles	20%
Furniture & Fixtures	10%
Computer Equipment	25%

(c) **Income & Expenses:-**

Income and expenses are recorded on the accruals basis. Income refers to subvention from the Government of Jamaica. Other income refers to interest gained from Certificates of Deposit, G.C.T refund and photocopying charges. Capital Funds and Grants are not shown in the Income & Expenditure Statement.

(d) **Appropriations in Aid fund** refer to amounts recovered for costs incurred from settling complaints outside of the Courts.

3. **PENSION FUND**

The company operates a contributory pension scheme for its employees, with benefits based on the employees' earnings during recognised service. The Fund Balance as at March 31, 2004 was

**FAIR TRADING COMMISSION  
NOTES TO THE FINANCIAL STATEMENTS  
YEAR ENDED 31st MARCH 2004**

VI

**4 FIXED ASSETS**

Particulars	GOJ Motor Vehicles	USAID Furniture Fixtures and Equipment	GOJ Furniture Fixtures and Equipment	Total
	\$	\$	\$	\$
<b>Cost</b>				
Balance b/f 1/4/03	3,226,965.00	876,678.00	3,452,193.00	7,555,836.00
Additions:2003/04			2,119,893.00	2,119,893.00
Disposals:2003/04			(127,086.00)	(127,086.00)
<b>Balance b/d 31/3/04</b>	<b>3,226,965.00</b>	<b>876,678.00</b>	<b>5,445,000.00</b>	<b>9,548,643.00</b>
<b>Accumulated Depreciation</b>				
Balance b/f 1/4/03	2,328,878.00	876,678.00	3,058,144.00	6,263,700.00
Depreciation Charge	534,020.00		493,234.00	1,027,254.00
Disposals:2003/04			(127,086.00)	(127,086.00)
<b>Balance b/d 31/3/04</b>	<b>2,862,898.00</b>	<b>876,678.00</b>	<b>3,424,292.00</b>	<b>7,163,868.00</b>
Net Book Value 31/3/04	364,067.00	0.00	2,020,708.00	2,384,775.00
Net Book Value 31/3/03	898,087.00	0.00	394,049.00	1,292,136.00

**5 CAPITAL FUND**

**GOJ**

Balance at the beginning of the year	1,292,136.00
Funds Received during the year	2,119,893.00
Less transfer to Income and Expenditure Account	(1,027,254.00)
Balance at 31/3/04	<u><u>2,384,775.00</u></u>



**FAIR TRADING COMMISSION**

**VII**

**SCHEDULE OF EXPENSES  
YEAR ENDED 31ST MARCH 2004**

	<u>Notes</u>	<u>2004</u>	<u>2003</u>
		\$	\$
<b>Salaries &amp; Other Staff Costs:</b>			
Salaries		18,461,712	16,172,298
Salaries (Temp) & Wages		683,947	611,959
Clothing & Robing Allowances		282,724	47,460
Library Allowance		347,810	536,625
Meal Allowances		393,915	454,666
Overtime Allowances		220,785	260,740
Statutory Contributions		925,937	732,478
Health Plan		795,638	574,744
Pension Plan Contribution	(3)	826,875	680,222
Gratuity		3,757,446	2,475,439
		<b>26,696,788</b>	<b>22,546,631</b>
<b>Travelling &amp; Transportation:</b>			
Motor Vehicle Allowances		1,824,752	1,271,374
Mileage Allowances			
Subsistence (Local)			
Cab Fare		49,700	49,700
Petrol & Oil		186,685	198,630
Repairs & Maintenance - Motor Vehicles		320,151	283,280
Air Fare		181,479	56,115
Subsistence (Foreign)		12,140	80,828
		<b>2,574,907</b>	<b>1,939,927</b>
<b>Rental:</b>			
Rental Of Building		3,193,812	2,803,207
Other Rental		54,000	61,961
		<b>3,247,812</b>	<b>2,865,168</b>
<b>Utilities:</b>			
Electricity		294,839	268,527
Telephone & Fax		527,194	447,468
		<b>822,033</b>	<b>715,995</b>

**SCHEDULE OF EXPENSES**  
**YEAR ENDED 31st MARCH 2004**

	<u>2004</u>	<u>2003</u>
	\$	\$
<b>Professional Services:</b>		
Auditing Fees		3,000
Advertising & Public Relations	1,037,864	364,330
Consultancy	86,144	265,650
Consulting (Legal Fees)	358,433	17,200
Stipend (Commissioners)	1,920,000	2,925,311
	<u>3,402,440</u>	<u>3,575,491</u>
<b>Office and General Expenses</b>		
Drugs& First Aid	9,827	7,274
Text & Reference Books	25,595	20,700
Food & Drinks	137,908	118,924
	<u>173,330</u>	<u>146,898</u>
<b>Miscellaneous Expenses</b>		
Sanitation, Security Services,Donation,etc.	94,975	315,349
	<u>94,975</u>	<u>315,349</u>