



FAIR TRADING COMMISSION

ANNUAL REPORT

FINANCIAL YEAR 2004/2005

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ANNUAL REPORT
FINANCIAL YEAR 2004/2005

EXECUTIVE DIRECTOR'S REMARKS

Over the years the number of cases received has risen significantly from **332** in 1999 to **502** in 2003. Up to December 2004, 326 complaints were received. This has affected our efficiency as reflected in a reduced resolution rate which decreased from 67% in 1999 to 26% in 2004. It must be noted that since 2001 a number of complaints which would hitherto have been channeled elsewhere are being investigated by the FTC. 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 without additional Staff.

Weaknesses in the FCA, which were highlighted by the Court of Appeal in the Jamaica Stock Exchange v Fair Trading Commission case, prohibited the Commission from taking matters through to a hearing by the Commission. Steps are being taken to amend the legislation and to have the weaknesses properly dealt with.

The FTC continued to work with the Trade Board Ltd., the Customs Department, and the Island Traffic Authority to establish standards in the motor vehicle sector and have the Motor Vehicle Import Policy amended to deal effectively with a variety of problems that plague the sector. Said policy was amended and launched in 2004.

During the year, the Commission finalized negotiations with the Inter-American Development Bank (IDB), for the purpose of providing technical assistance to the FTC over a three (3) year period to (i) to strengthen the technical capacity of the FTC; and (ii) to better inform the public and policy makers about the criteria and enforcement mechanisms of competition policy and the importance of competitive markets.

**Barbara Lee (Mrs.)
Executive Director
April 24, 2005**

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 the Commission set the following programmes as its main priorities:

- Investigate complaints and seek amicable resolutions where possible. Obtain fees where possible through the use of Consent Agreements, to cover expenses incurred in the investigation.
- Initiate legal action for those complaints for which out of Court settlements are not forthcoming and conclude legal matters before the courts.
- Closely monitor the furniture, appliance, and 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, Government agencies and technical advisors within the public sector.

- Spearhead competition advocacy – coordinate activities with the Consumer Affairs Commission, the Bureau of Standards of Jamaica and the Ministry of Education.
- Facilitate the training of the judiciary.
- 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, 2004 to March 31, 2005, a total of one thousand two hundred and twenty-two (1,222) cases were investigated by the Commission with three hundred and one (301) being completed. This compares with one thousand and sixty-four (1,064) cases investigated and two hundred and forty-four (244) being completed in the equivalent period in the previous Financial Year.

A total of four hundred and three (403) cases were received during the period. Of that number, three hundred and nineteen (319) cases were classified as cases of 'Misleading Advertising' (MA). Similar to previous periods MA cases accounted for the majority of complaints received, comprising approximately seventy-nine percent (79%) of all cases dealt with. In the previous period eighty-two percent (82%) of all cases received were cases of MA. Of the one thousand two hundred and twenty-two (1,222) cases investigated during the period, one thousand and twenty-six (1,026) or eighty-four percent (84%) were classified as MA. The majority of MA 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) formed the second highest category of complaints received, accounting for approximately eight percent (8%) (33 of 403) of the cases received, compared with six percent (6%) in the previous period. There were twenty-four (24) cases (6%) in the category 'Other Offences Against Competition'.

In comparison to the above categories, each of the others represented a relatively small number of the cases received. One (1) case was received in the

category "Failure to Supply at a Bargain Price", eighteen (18) in the category "Request for Information/Opinion", and six (6) in the category "Sale Above Advertised Price."

Resolution Rates

Overall, the Commission successfully completed about a quarter (approximately 25%) of the cases investigated during the Financial Year, compared with twenty-three percent (23%) in the previous year.

The increasing number of cases received in recent years is partly a result of increased awareness on the part of the public, of the Commission's role and function. Relatively high resolution rates were also recorded in the categories of "Not Covered by the FCA" (NA) and "Requests for Opinion" (48% and 43% 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.

Major Cases Investigated

The Commission pursued a number of matters in the Courts during the 2004/2005 Financial Year and continued to enforce provisions of the FCA specifically as they relate to the telecommunications industry. Other matters investigated include specific complaints against an automobile dealer and a furniture establishment and more generally, the issue of incorrect representation of the model years of motor vehicles.

Out-of-Court Settlements

FTC v. Cable & Wireless Jamaica Ltd. (C&WJ)

In December 2003, the Respondent launched a promotional competition which purported to give its mobile telephone customers an opportunity to win a BMW X5 motor vehicle. The winner was to be chosen by way of a random drawing.

The Respondent advertised that the drawing of the winner would take place on January 16, 2004. On January 15, 2004, an article was published in the Daily Gleaner newspaper, advising the public that the draw had taken place, and the winner chosen. This was contrary to the Respondent's previous representation which stated that the date of the draw would be January 16, 2004.

By way of complaints to the FTC, several persons alleged that they were planning to purchase mobile telephones and/or mobile telephone service on January 15, 2004, which would have allowed them to qualify for entry into the competition. On that date they discovered that the draw had already taken place, and consequently, were denied an opportunity to enter the competition.

Based on the complaints received, the Staff launched an investigation into the allegations of misleading advertisement on the part of the Respondent as prohibited under Section 37(1)(a) of the FCA. The Staff concluded that the Respondent's conduct constituted the offence of misleading representation under the FCA. Having acknowledged the breach, C&WJ agreed that it would:

- (i) conduct a second promotional campaign between August 16, 2004 and August 27, 2004; in respect of which advertisements would be placed in the Daily Gleaner, Observer and Star newspapers on Sundays, Mondays, Wednesdays and Fridays.
- (ii) enter into a Consent Agreement with the Commission, the specific terms to be agreed between the parties; and

- (iii) pay costs to the Commission in the sum of One Hundred and Eight Four Thousand dollars(\$184,000) pursuant to Regulation number 9 of the Fair Competition (Notices and Procedures) Regulations, 2000.

The signing of the Consent Agreement by C&WJ is pending.

Investigation into Gasoline Retailing

Pursuant to a directive issued by the Minister of Commerce Science & Technology, an investigation was carried out into the practices within the petroleum industry, with particular focus on gasoline retailing. The directive required that the FTC prepare and later implement a Code of Conduct to govern the relationship between petroleum marketing companies and retailers. The mandate required that the focus of the Code be the protection of the Jamaican consumer. Given the mandate of the FTC, this was interpreted to mean that the ultimate outcome of the Code is to ensure the lowest possible automotive fuel prices and the widest possible choice of retail outlets for consumers.

An investigation was carried out within the context of the FCA, the objectives of which are to encourage competition in the conduct of trade and business in Jamaica and to ensure that all legitimate business enterprises have an equal opportunity to participate in the Jamaican economy. These objectives, which are supported by the provisions of the FCA, are geared toward ensuring market efficiency, better goods and services and a wide range of product choices at the best possible prices. The focus of the FTC in this matter was therefore to ensure that competition is not being prevented or distorted by companies engaging in anticompetitive activities, which ultimately undermine consumer welfare.

Market conduct was investigated to determine whether there was evidence of predatory pricing, price discrimination, price fixing, resale price maintenance and exclusive dealing. The Findings were:

- (i) No evidence of predatory pricing, price fixing or resale price maintenance

- (ii) There is exclusive dealing and price discrimination in the sector. In relation to this practice, some contracts in respect of dealer-owned premises were for durations of up to fifteen (15) years. The Commission has recommended that such contracts be limited to a period of no more than five (5) years.
- (iii) Some retailers were not displaying fuel prices on display boards.

A Code of Conduct was produced by the FTC, to govern the relationship between retailers and marketing companies and circulated it to all the relevant players in the industry. The aim of the Code is to stimulate more competition within the industry. The Code addresses ten (10) areas as follows:

- (i) Viability of business
- (ii) Duration of contract
- (iii) Disposal of property
- (iv) Compensation for termination
- (v) Notice of termination or non-renewal
- (vi) Display of pump prices
- (vii) Price discrimination
- (viii) Predatory pricing
- (ix) Obligation of wholesaler
- (x) Obligation of retailer

The provisions included in the Code are those that will stimulate greater competition in the industry. Thus for instance, efforts have been made to address price discrimination and predatory pricing; to shorten exclusive contracts with respect to retailer-owned property; and to circumscribe the marketing companies' attempts at reducing the number of retail outlets and in effect the level of competition.

The competitive process depends, *inter alia*, on consumers having adequate information to enable them to make rational choices. It was determined that in some cases consumers are deprived of information regarding fuel prices. A

significant number of retailers do not display prices on their display boards, and although the prices are on the pumps consumers are prejudiced if they have to wait until they reach the pump to obtain this material piece of information. Given the nature of the products involved and the way in which they are sold, the non-display of fuel prices makes it difficult for consumers to carry out price comparisons in an efficient, convenient and meaningful way. It is for this reason that the Code requires that retailers prominently display fuel prices.

Court Matters

FTC v. Pyramid Roofing Systems

In 1998 an 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.

The FTC filed an Originating Motion in the Supreme Court in respect of the matter, 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 seven hundred thousand dollars (\$700,000.00). The FTC is in the process of executing the Order. To date, the sum of approximately one hundred and two thousand two hundred and forty seven dollars eighty cents (\$102,247.80) has been paid by the Respondent. This sum has been paid to the Crown via the Accountant General.

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 seven (7) and fourteen (14) days.

In many instances the items were not delivered and in those instances in which 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 (2) 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 matter came up for hearing in the Supreme Court on March 23, 2004 and again on June 17, 2004. On the last occasion the FTC was asked to file a Notice of Application for the Court Order. The hearing date for the Notice of Application has been set for July 7, 2005.

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 continued 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. On May 4, 2004 the Court referred the matter to mediation, which was held on October 27, 2004; and a settlement arrived at. The rules governing the mediation process prevent disclosure of the terms of settlement. The matter was scheduled to come up before the Supreme Court on April 26, 2005, when the question of endorsing the Court records would be heard.

PUBLIC EDUCATION PROGRAMMES AND MEDIA CAMPAIGNS

The Commission continued to inform and educate the public on issues related to competition law and policy. During the 2004/2005 Financial Year the Commission met with various associations and companies. These include the Trade Board Limited, Financial Investigation Division of the Ministry of Finance & Planning, Island Traffic Authority, Jamaica Customs, Registrar General's Department, Bureau of Standards, Office of Utilities Regulation, Jamaica Chamber of Commerce, and the Jamaica Manufacturers Association. Other avenues for public education activities took the form of press conferences, press releases and advisories, television and radio interviews, seminars/workshops and addresses presented by the Staff to service clubs and tertiary level institutions.

The fifth lecture in the Shirley Playfair Lecture Series was held on November 18, 2004, at the Jamaica Pegasus Hotel. The Lecture was presented by Dr. William Bishop, an expert on the economics of Competition Law with over twenty (20) years experience as an advisor to companies worldwide.

Dr. Bishop's presentation was entitled "Antitrust lessons from the Microsoft wars: economics of dominance, regulation and intellectual property". Persons in attendance included members of the business community, the legal fraternity, academia; journalists and representatives of some Ministries and Government Agencies.

On September 2nd to 4th, 2004, the Commission hosted a Capacity Building Workshop for the judiciary. The workshop was conducted by Judge Diane P. Wood, Circuit Judge, U.S. Court of Appeals for the Seventh Circuit; and Senior Lecturer in Law at the University of Chicago Law School. Five (5) Judges attended the Workshop. In addition, copies of the presentation were sent to the Chief Justice, the Supreme Court Library, the Norman Manley Law School, the

Sir Arthur Lewis Institute of Social and Economic Studies, and the Solicitor General. The Workshop was funded by the Inter-American Development Bank (IADB) through its Hemispheric Cooperation Programme.

The Staff also participated in the Consumer Affairs Commission's World Consumer Rights Week Symposium by way of a presentation on the implications of deregulation in Jamaica.

Both the Commissioners and Staff participated in the radio talk shows Nationwide, Independent Talk, Drive Time Live, Straight Talk and First Edition. A wide-ranging number of competition and consumer related issues were discussed. Presentations were made to students of various secondary and tertiary level institutions during the year. The December 2004 issue of the Commission's annual Newsletter was published and circulated to various interest groups.

The Commission maintained its high level of public education 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

Investigations into (a) the action of the Passport Office to change the tenure of existing passports; (b) the non-display of the professional fees charged by pharmacies; (c) exclusive arrangements and allegations of collusion in the chicken industry; (d) possible discrimination against lawyers and valuers in the market for mortgage services; (e) possible discrimination and refusal to deal in the market for funeral services, were undertaken.

Investigations into the markets for electronic money transmission and cambio services, to determine specifically whether the practice of tied selling exists in these markets, are also being conducted. The Telecommunications sector also continues to receive the attention of the FTC.

PARTICIPATION IN THE DEVELOPMENT OF TRADE POLICIES

The Staff 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, and submitted opinions on the respective subject areas.

The Commission participated in and or presented at international seminars or workshops hosted by the Commonwealth Secretariat, International Competition Network (ICN), Organisation for Economic Co-operation and Development (OECD), and the United Nations Conference on Trade & Development (UNCTAD).

The subjects/themes of these seminars included “Commonwealth Expert Group Meeting on the Draft Model Bill on Competition for the Asia Region” (hosted by the Commonwealth Secretariat), “Third Annual ICN Conference” (hosted by ICN), “Global Forum on Competition” and “Seminar on Prosecuting Hard Core Cartels and Competition Advocacy” (hosted by OECD), Intergovernmental Group of Experts on Competition Law and Policy (hosted by UNCTAD).

Papers entitled “An Overview of the Draft Model Law on Competition – Asia Region”; “Jamaica’s Case Study – Refusal of Access to Port Facilities”; “Advocacy in Promoting Awareness of Competition Policy in Developing Countries.”

Participation at these seminars and conferences was fully funded by the hosting entity, an international funding agency or the participants themselves.

LEGISLATION/REGULATIONS

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

Progress work on the enactment of the regulations referred to above as well as on amendments to the Fair Competition (Notices and Procedures) Regulations, 2000, was deferred in order that they may be dealt with simultaneously with amendments to the Act. The FCA (Notices and Procedures) Regulations is also being amended. Drafting instructions for procedural guidelines which would lend certainty and transparency to the Commission's investigative procedures were submitted in July 2001. However, the process was 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 were obtained from the Legal Reform Department, the Attorney General's Department and from the Solicitor General specifically.

Within the last three (3) weeks of the Financial Year, the MCST submitted draft amendments to the FCA, together with a draft of the supporting Cabinet submission for the FTC's perusal and comments. This has generated discussions at various levels. The other pieces of legislation referred to above are being discussed.

FUNDING FROM INTERNATIONAL AGENCIES

Inter-American Development Bank (IDB)

In February 2005 the IDB entered into an agreement with the Fair Trading Commission (FTC), to provide technical assistance to the FTC over a three (3) year period under a Project entitled “*IDB/MIF Nonreimbursable Technical Cooperation No. ATN-9003-JA: Strengthening the Fair Trading Commission*”.

The goal of the Project is to enhance competition in the Jamaican economy and its purposes are: (i) to strengthen the capacity of the JFTC to be an effective enforcer of Competition Law and Policy in Jamaica; and (ii) to better inform economic actors about the criteria and enforcement mechanisms of competition policy and the importance of competitive markets. The Project is divided into two components: Component 1 - Improving Technical Capabilities and the Efficiency of the FTC; and Component 2 - Outreach.

The estimated value of the Project is the equivalent of US\$439,300, apportioned as follows:

Budget

(in US\$)

| Activities | MIF Contribution | Local Contribution | Total |
|-------------------------------|-------------------------|---------------------------|----------------|
| Component I | 229,000 | 69,300 | 298,300 |
| Component II | 40,000 | 16,000 | 56,000 |
| Project Administration | | 45,000 | 45,000 |
| Midterm and final evaluations | 20,000 | | 20,000 |
| Audit | 4,000 | | 4,000 |
| Contingencies | 11,000 | 5,000 | 16,000 |
| TOTAL PROJECT BUDGET | 304,000 | 135,300 | 439,300 |
| Percentages | 69% | 31% | 100% |

The activities which are provided for under the Project are expected to get underway early in the upcoming Financial Year.

BUDGETARY ALLOCATION

For the Financial Year the Commission was allocated \$40.7M by the Ministry of Commerce Science and Technology. The Commission's Recurrent Expenditure for the period April to December 2004 totaled \$29.1M, in line with the year-to-date projection of \$30.5M.

The following table summarises the budgetary figures for the Commission.

Budgetary Allocation (2002/03 – 2005/06)

| Object | 2005/2006 Approved (\$) | 2004/2005 Actual (\$) | 2003/2004 Actual (\$) | 2002/2003 Actual (\$) |
|-------------------------------------|------------------------------------|----------------------------------|----------------------------------|----------------------------------|
| Compensation of Employees | 32,854,000 | 32,078,091 | 29,150,484 | 24,652,702 |
| Travel Expense & Subsistence | 3,127,000 | 2,738,603 | 2,154,431 | 1,632,161 |
| Rental Of Bldg., Machinery & Equip. | 4,091,000 | 2,570,760 | 3,105,670 | 2,866,196 |
| Public Utility Services | 1,757,000 | 1,134,866 | 899,231 | 769,195 |
| Purchase of other Goods & Services | 1,847,000 | 2,927,184 | 3,042,661 | 2,469,565 |
| Asset Purchases | 331,000 | 199,399 | 534,231 | 76,623 |
| Total | 44,007,000 | 41,648,903 | 38,886,708 | 32,466,442 |

SUMMARY OF MAIN PROGRAMMES FOR 2005/2006

The Commission has established its prime goals as:

- Competition Advocacy; coordinating activities with the Consumer Affairs Commission, the Bureau of Standards Jamaica and the Ministry of Education, Youth and Culture.
- Facilitating the training of the Judiciary.
- Influencing innovation and encouraging improvements in services provided to consumers thereby improving competitiveness among all players in the market.
- Educating manufacturers and distributors as to the need to provide adequate and relevant information on products and services offered for sale.
- Achieving 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. Focusing on the business community, to educate it on its responsibilities under the FCA, thereby reducing breaches of the Act.
- Influencing decisions by 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 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, attending 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).;

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

SCHEDULE OF EMOLUMENTS OF SENIOR OFFICERS

| Post | Basic Salary p.a. (inclusive of Taxable Allowances) |
|----------------------|--|
| Executive Director | \$4,174,123 |
| Senior Legal Counsel | 2,961,205 |
| General Manager | 2,819,814 |

Note that:

- a) A Gratuity of 25% of Basic Salary is included in the above figures.
- b) A Non-Taxable Motor Vehicle Allowance of \$341,220 per annum is paid to each Officer.

**FAIR TRADING COMMISSION
AUDITED
FINANCIAL STATEMENTS
YEAR ENDED 31ST MARCH 2005**

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FAIR TRADING
COMMISSION
SEP 14 2007
RECEIVED

FAIR TRADING
COMMISSION
SEP 14 2007
LOGGED

Auditor General's
Report on the Financial Statements
of the Fair Trading Commission

I have audited the accompanying financial statements of the Fair Trading Commission which comprise the balance sheet as at March 31, 2005, and the statements of income and cash flow for the year then ended, and a summary of significant accounting policies and other explanatory notes.

Management is responsible for the preparation and fair presentation of these financial statements in accordance with generally accepted accounting standards. This responsibility includes: designing, implementing and maintaining internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

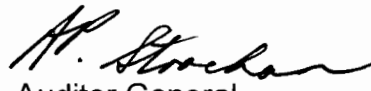
My responsibility is to express an opinion on these financial statements based on my audit. I conducted my audit in accordance with the auditing standards issued by the International Organization of Supreme Audit Institutions (INTOSAI). Those standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances.

An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

In my opinion proper accounting records have been kept and the financial statements which are in agreement therewith give a true and fair view of the financial position of the Fair Trading Commission as of March 31, 2005, and of its financial performance 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
12/9/2007

FAIR TRADING COMMISSION

II

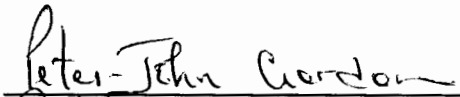
**BALANCE SHEET
AS AT 31st MARCH 2005**

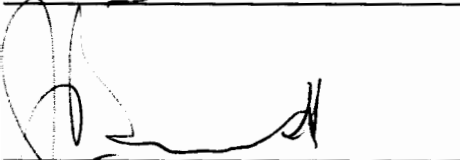
| | <u>Notes</u> | <u>2005</u> | <u>2004</u> |
|-------------------------------------|--------------|-------------------------|---------------------------|
| | | \$ | \$ |
| <u>Non-Current Assets:</u> | | | |
| At Cost Less Aggregate Depreciation | (2b & 4) | 2,953,055 | ✓ 2,384,775 |
| <u>Current Assets:</u> | | | |
| Receivables | | ✓ 248,962 | ✓ 246,124 |
| Prepayments | | ✓ 64,817 | ✓ 69,938 |
| Fixed Deposits | | | ✓ 1,900,000 |
| Cash & Bank Balances | | . 998,796 | ✓ 530,744 |
| | | <u>1,312,575</u> | <u>✓ 2,746,806</u> |
| Net Assets | | <u><u>4,265,630</u></u> | <u><u>✓ 5,131,581</u></u> |

REPRESENTED BY:

Current Liability:

| | | | |
|---|-----|-------------------------|-------------------------|
| Accounts Payable | | . 3,958,262 | ✓ 1,945,141 |
| Capital Fund | (5) | ✓ 2,953,055 | ✓ 2,384,775 |
| Revenue - Accumulated Surplus / (Deficit) | | <u>(2,645,687)</u> | <u>801,665</u> |
| | | <u><u>4,265,630</u></u> | <u><u>5,131,581</u></u> |

 **CHAIRMAN**

 **COMMISSIONER**

The accompanying notes 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>2005</u> | <u>2004</u> |
|---|--------------|----------------------------------|------------------------------|
| | | \$ | \$ |
| Income: | (2c) | | |
| Government Grant | | 36,527,323 | 39,073,634 |
| Other Income | | 1,677,758 | 449,073 |
| Appropriations in Aid Fund | (2d) | 171,248 | 140,000 |
| Transfer from G.O.J. Capital Grant | | <u>1,339,966</u> | <u>1,027,254</u> |
| | | 39,716,295 | 40,689,961 |
| Expenses: | (2c) | | |
| Salaries & Other Staff Costs | | 29,874,361 | 26,696,788 |
| Travelling & Transportation | | 2,811,260 | 2,574,907 |
| Rental | | 3,950,620 | 3,247,812 |
| Utilities | | 1,138,916 | 822,033 |
| Professional Services | | 2,687,311 | 3,402,440 |
| Printing & Stationery | | 349,040 | 333,553 |
| Postal & Cable | | 55,860 | 25,250 |
| Subscriptions | | 45,906 | 49,389 |
| Office & General Expenses | | 104,181 | 173,330 |
| Repairs & Maintenance | | 348,216 | 115,573 |
| Depreciation | | 974,140 | 1,027,254 |
| Official Entertainment | | | 4,478 |
| Staff Welfare | | 458,390 | 236,040 |
| Bank Charges | | 27,897 | 28,015 |
| Miscellaneous Expenses | | 205,830 | 94,975 |
| Insurance | | <u>131,719</u> | <u>215,698</u> |
| | | <u>43,163,647</u> | <u>39,047,535</u> |
| Net Surplus / (Deficit) For The Year | | (3,447,352) | 1,642,426 |
| Surplus At The Beginning Of The Year | | <u>801,665</u> | <u>(840,761)</u> |
| Accumulated Surplus / (Deficit) At The End Of The Year | | <u><u>(2,645,687)</u></u> | <u><u>801,665</u></u> |

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

FAIR TRADING COMMISSION

IV

**STATEMENT OF CASH FLOWS
YEAR ENDED 31ST MARCH 2005**

| | <u>2005</u> | <u>2004</u> |
|--|----------------|------------------|
| | \$ | \$ |
| Cash Flows From Operating Activities:- | | |
| Net Surplus / (Deficit) Per Accounts | (3,813,178) | 1,642,426 |
| Adjustments to reconcile income for the year to net cash provided by operating activities: | | |
| Prior year Adj. | | 17,463 |
| Interest on cert.of deposit | | |
| Depreciation | 974,140 | 1,027,254 |
| Transfer from G.O.J. & USAID Capital Grant | (974,140) | (1,027,254) |
| Profit on disposal of Non-Current Assets | (1,553,573) | |
| | (5,366,751) | 1,659,889 |
| (Increase)/Decrease in Current Assets | | |
| Accounts Receivable | (2,839) | (127,209) |
| Prepayments | 5,121 | 20,050 |
| Increase/(Decrease) in Current Liability | | |
| Accounts Payable | 2,013,121 | 668,726 |
| Net Cash Provided By Operating Activities | (3,351,348) | 2,221,456 |
| Cash Flows From Investing Activities:- | | |
| Purchase Of Non-Current Assets | (1,908,248) | (2,119,893) |
| Proceeds from disposal of Non-Current Assets | 1,919,400 | |
| Purchase of Certificate of Deposit | | |
| Net Cash Used In Investing Activities | 11,152 | (2,119,893) |
| Cash Flows From Financing Activities:- | | |
| Capital Fund | 1,908,248 | 2,119,893 |
| Net Cash Used In Financing Activities | 1,908,248 | 2,119,893 |
| Net Increase / Decrease In Cash And Cash Equivalents | (1,431,948) | 2,221,456 |
| Cash & Cash Equivalents At The Beginning Of The Year | 2,430,744 | 209,288 |
| Cash And Cash Equivalents At The End Of The Year | 998,796 | 2,430,744 |
| Represented By: | | |
| Certificate of Deposit | | 1,900,000 |
| Cash & Bank Balances | 998,796 | 530,744 |
| | 998,796 | 2,430,744 |

The accompanying notes form an integral part of the financial statement and must be read in conjunction with them.

FAIR TRADING COMMISSION
NOTES TO THE FINANCIAL STATEMENTS
YEAR ENDED 31ST MARCH, 2005

4. NON-CURRENT ASSETS:

| Particulars | GOJ Motor Vehicles | USAID Furniture Fixtures & Equipment | GOJ Furniture Fixtures & Equipment | Total |
|--|-----------------------|--|--|------------------|
| | \$ | \$ | \$ | \$ |
| Cost | | | | |
| Balance b/f 1/4/04 | 3,226,965 | 876,678 | 5,445,000 | 9,548,643 |
| Additions:2004/05 | 1,640,861 | | 267,386 | 1,908,247 |
| Disposals:2004/05 | (2,871,219) | | (429,743) | (3,300,962) |
| Balance b/d 31/3/05 | 1,996,607 | 876,678 | 5,282,643 | 8,155,928 |
| Accumulated Depreciation | | | | |
| Balance b/f 1/4/04 | 2,862,898 | 876,678 | 3,424,292 | 7,163,868 |
| Depreciation Charge | 136,739 | | 837,401 | 974,140 |
| Adjustments / rev.accum.dep. disposal | (2,507,152) | | (427,983) | (2,935,135) |
| Balance b/d 31/3/05 | 492,485 | 876,678 | 3,833,710 | 5,202,873 |
| Net Book Value 31/03/05 | 1,504,122 | 0 | 1,448,933 | 2,953,055 |
| Net Book Value 31/03/04 | 364,067 | 0 | 2,020,708 | 2,384,775 |

5 CAPITAL FUND

| (A) <u>GOJ</u> | 2004/05 \$ | 2003/04 \$ |
|---|-------------------------|-------------------------|
| Balance at the beginning of the year | 2,384,775 | 1,292,136 |
| Funds Received during the year | 1,908,246 | 2,119,893 |
| Less Transfer to Income & Expenditure Account | (1,339,966) | (1,027,254) |
| | <u>2,953,055</u> | <u>2,384,775</u> |

* Depreciation charge for the year.

(B) An amount of subvention equal to funds spent to acquire fixed asset during the year is transferred to capital reserve.

FAIR TRADING COMMISSION

VII

**SCHEDULE OF EXPENSES
YEAR ENDED 31ST MARCH 2005**

| | <u>Notes</u> | <u>2005</u> | <u>2004</u> |
|--|--------------|--------------------------|--------------------------|
| | | \$ | \$ |
| Salaries & Other Staff Costs: | | | |
| Salaries | | 16,986,091 | 18,461,712 |
| Salaries (Temp) & Wages | | 727,816 | 683,947 |
| Clothing & Robing Allowances | | 145,170 | 282,724 |
| Library Allowance | | 144,000 | 347,810 |
| Meal Allowances | | 456,280 | 393,915 |
| Overtime Allowances | | 207,084 | 220,785 |
| Statutory Contributions -paid by FTC. | | 955,761 | 925,937 |
| Statutory Contributions -paid by Accountant Gen. | | 5,912,874 | |
| Health Plan | | 1,112,468 | 795,638 |
| Pension Plan Contribution | (3) | 1,209,304 | 826,875 |
| Gratuity | | 2,017,513 | 3,757,446 |
| | | <u>29,874,361</u> | <u>26,696,788</u> |
| Travelling & Transportation: | | | |
| Motor Vehicle Allowances | | 2,352,734 | 1,824,752 |
| Mileage Allowances | | | |
| Subsistence (Local) | | | |
| Cab Fare | | 36,825 | 49,700 |
| Petrol & Oil | | 111,437 | 186,685 |
| Repairs & Maintenance - Motor Vehicles | | 104,703 | 320,151 |
| Air Fare | | 139,271 | 181,479 |
| Subsistence (Foreign) | | 66,290 | 12,140 |
| | | <u>2,811,260</u> | <u>2,574,907</u> |
| Rental: | | | |
| Rental Of Building | | 3,894,370 | 3,193,812 |
| Other Rental | | 56,250 | 54,000 |
| | | <u>3,950,620</u> | <u>3,247,812</u> |
| Utilities: | | | |
| Electricity | | 380,753 | 294,839 |
| Telephone & Fax | | 758,163 | 527,194 |
| | | <u>1,138,916</u> | <u>822,033</u> |

FAIR TRADING COMMISSION**VIII****SCHEDULE OF EXPENSES
YEAR ENDED 31st MARCH 2005**

| | <u>2005</u> | <u>2004</u> |
|---|-------------------------|-------------------------|
| | \$ | \$ |
| Professional Services: | | |
| Auditing Fees | 3,000 | |
| Advertising & Public Relations | 572,173 | 1,037,864 |
| Consultancy | 129,425 | 86,144 |
| Consulting (Legal Fees) | 62,713 | 358,433 |
| Stipend (Commissioners) | 1,920,000 | 1,920,000 |
| | <u>2,687,311</u> | <u>3,402,440</u> |
| Office and General Expenses | | |
| Drugs& First Aid | 7,211 | 9,827 |
| Text & Reference Books | 14,227 | 25,595 |
| Food & Drinks | 82,744 | 137,908 |
| | <u>104,181</u> | <u>173,330</u> |
| Miscellaneous Expenses | | |
| Sanitation, Security Services, Donation, etc. | 205,830 | 94,975 |
| | <u>205,830</u> | <u>94,975</u> |