



**FAIR TRADING COMMISSION
ANNUAL REPORT
FINANCIAL YEAR 2005/2006**

EXECUTIVE DIRECTOR'S REMARKS

During the Financial Year several of the activities of the Inter-American Development Bank Technical Cooperation Project were initiated. The Project, valued at US\$439,300, is aimed at enhancing competition in the Jamaican economy by strengthening the technical capacity of the Fair Trading Commission (FTC); and by facilitating the creation of a structure that will serve to better inform consumers and businesses about the criteria and enforcement mechanisms of competition law and the importance of competitive markets in Jamaica.

The Project allowed for the hiring of two international experts in the field of Competition Law & Policy; and preparatory work for the engagement of both experts began early in the year. Also, in January 2006 we published the first article in our newly created newspaper series entitled "*Competition Focus*", a monthly publication aimed at providing the general public with a basic knowledge of the various facets of Competition Law and Policy as well as the answers to frequently asked questions.

We executed three other activities of our new Communication Strategy, which is designed to educate the several groups within our market namely, the business community, policy makers, the judiciary, and the public in general. The sixth Shirley Playfair Lecture was held on September 8, 2005. It took the form of an interactive panel discussion which explored two topical issues, (a) the relationship between Competition and Development, and (b) Water and Energy Policies and the relevant implications for development. The eleventh edition of our annual Newsletter, *Competition Matters* was issued in December of the same year and was distributed to approximately four hundred (400) local bodies and one hundred (100) persons from thirty (30) different overseas based institutions including Competition Agencies, consultancy firms, development-oriented organizations and private practitioners.

In addition to our core function of investigating complaints and prosecuting anticompetitive practices we continued to work on several economic studies and participate in the development of the region's Competition Law statute.

Barbara Lee

**Barbara Lee (Mrs.)
Executive Director
May 20, 2006**

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 2005/2006, the Commission set the following programmes as its main priorities:

- Investigate complaints and seek amicable resolutions where possible. Recover where possible through Consent Agreements, costs incurred in investigations.
- Initiate legal action for those complaints for which out of Court settlements are not forthcoming and conclude legal matters before the courts.
- 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.
- Assist the Ministry of Foreign Affairs & Foreign Trade as it seeks to determine Jamaica's competition policy, thereby contributing to the formulation of CARICOM and WTO Rules in the area of Competition Law and Policy.
- 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; and the establishment of the Regional Competition Authority.
- 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, 2005 to March 31, 2006, a total of one thousand four hundred and fifty-eight (1,458) cases were investigated by the Commission with one hundred and three hundred and one (301) being completed. This compares with one thousand two hundred and twenty-two (1,222) cases investigated and three hundred and one (301) being completed in the equivalent period in the previous Financial Year.

A total of two hundred and thirty-six (236) cases were received during the period. Of that number, one hundred and eighty-seven (187) cases were classified as cases of 'Misleading Advertising' (MA). Similar to the previous period MA cases accounted for the majority of complaints received, comprising approximately seventy-nine percent (79%) of all cases dealt with. Of the one thousand four hundred and fifty-eight (1,458) cases investigated during the period, one thousand two hundred and seventeen (1,217) were classified as MA. The majority of MA cases were against used car dealers, furniture/appliance retailers and providers of telecommunications services 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 ten percent (10%), of the cases received (23 of 236), compared with eight percent (8%) in the previous period. There were seventeen (17) cases (8%) in the category 'Offences Against Competition'.

In comparison to the above categories, each of the others represented a relatively small number of the cases received. Six (6) cases were received in the

category "Request for Information/Opinion", and three (3) in the category "Sale Above Advertised Price."

Resolution Rates

Overall, the Commission successfully completed twenty-one percent (21%) of the cases investigated during the Financial Year, compared with twenty-five percent (25%) in the previous year.

The reduction in resolution rate resulted from the emerging shift in focus from consumer matters to competition matters where issues are researched on the broad/macro level. Ministerial Directive issued on May 31, 2005 urged the Fair Trading Commission to "take steps to divest itself on work in relation to Consumer issues and concentrate on Competition issues". The Commission has since launched a number of macro-investigations into various sectors.

Major Cases Investigated

The Commission pursued a number of matters in the Courts during the 2005/2006 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, Solid Agency Limited, The Warehouse Limited and Valu Muzik.

Out-of-Court Settlement

Solid Agency Ltd. (Solid)

During December, 2003, the Respondent advertised that several artistes would perform at its stage show called "Hot Shots 2003", which was to be presented at Hope Gardens on Saturday, December 21, 2003, beginning at 2:00 p.m.

On the day of the show, the Respondent advertised that due to the inclement weather, the show had been rescheduled for the following day, Sunday,

December 22, 2005 to begin at 2:00 p.m. On that date, two of the artistes did not perform; and the show did not begin at 2:00 p.m. as advertised.

The Commission initiated an investigation into the matter and concluded that the Respondent's conduct constituted a breach of Section 37 of the Fair Competition Act. The Commission informed the Respondent of the breach. The Respondent acknowledged the breach and a Consent Agreement has been agreed upon. It includes the following terms:

1. The Respondent will issue a public apology regarding the breach; and
2. The Respondent will pay to the Commission the sum of One Hundred and Eighty Nine Thousand Dollars (\$189,000.00) in settlement of the costs incurred by the Commission in its investigation.

Court Matters

Valu Musik

In May 2002, the Commission received a complaint that the Respondent had sold a flute which it represented as being brand new and of superior quality. It was later determined that the flute was defective.

The Respondent maintained that the flute was brand new and had been either misused or damaged due to improper assembling or disassembling. The FTC requested proof that the instrument was new and of who the manufacturer is, but the Respondent claimed that it had not arrived with any documents because it was a student flute. It refused to cooperate with the investigation.

As a result the Commission commenced criminal proceedings against the Respondent in the Resident Magistrates Court for failure to cooperate with the FTC; and the matter was handed over to the Cross Roads Police Station in August 2004. After the FTC appealed to the Commissioner of Police the Cross Roads Police eventually attempted to serve the relevant Summons in November

3, 2005 but subsequently advised that the Respondent is no longer in business and had migrated sometime in 2005.

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 paid deposits ranging between eight thousand dollars (\$8,000) and thirty eight thousand dollars (\$38,000). 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. In 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 to the FTC. The FTC filed suit on December 2, 2003. In the early stages of the case, it was ascertained that the Respondent's directors had migrated and were unrepresented in the Suit. The Staff proceeded in any event. The matter was adjourned on numerous occasions for different reasons, including directions issued by the Judge hearing the matter, that separate affidavits be filed for each Informant. On November 2, 2005 the Judge made an Order in Default declaring the Respondent in breach of Section 37 the FCA. The Judge was not minded however, to impose a penalty or award damages, on the grounds that there is no Respondent against which the judgment can be enforced.

Key Motors Limited

Between October 1999 and June 2003, the FTC received at least thirty-seven (37) complaints against the Respondent. 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.

On October 13, 2003, the FTC filed a suit in the Supreme Court against the Respondent seeking, among other things, a declaration that the Respondent has breached Section 37 of the FCA and 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. On November 1, 2005, the matter was noted on the Court Records as settled.

Macro Investigations

Automobiles - Used Auto Parts Dealers

Over time the Commission has received numerous complaints regarding the duration of warranties being offered by dealers in used parts. Investigations have revealed that the warranty periods offered are usually between seven and twenty-one days. Given this short warranty period, the Staff is of the view that consumers may benefit from public information emphasizing the need to exercise great care and responsibility in purchasing automobile parts, and to ensure that they are provided with written warranties. Unlike newly imported used motor vehicles which carry mandatory warranty terms stipulated by the Ministry of Commerce, Science & Technology, used automobile parts do not carry any such warranty. The onus therefore, is on consumers to research the various warranty terms and conditions offered by Merchants in the market before making a purchase.

In light of the Minister's directive that the Commission should shift its focus to competition matters, it was decided that it might be more appropriate for the CAC to issue a public advisory containing the relevant information. As such, a letter was sent to that Agency outlining our research, and proposing that it issue an advisory.

Automobiles - Motor Vehicle Repairs

This investigation aims to determine whether the procedures for documenting motor vehicle repair work are transparent; and to advocate for the establishment of appropriate regulation.

The Staff has embarked on discussions with the Motor Vehicles Repairers Association (MVRA) with a view to establishing standards for motor vehicle repairs; the Association advised that together with the MCST it had researched the matter some three (3) years ago; and a draft document was sent to Cabinet but that the recommendations were not executed. The Staff has requested a copy of the draft document from the MCST, together with a report on the status of the recommendations. Existing standards and procedures for motor vehicle repairs in USA (Florida), Australia and other countries are being examined.

Travel - Airline Special Fares

Investigation into this matter was prompted by a complaint that on June 18, 2004, a member of the public observed an advertisement in the Daily Gleaner, which represented that Air Jamaica was offering two special return fares from Newark/New York, expiring on August 28, 2004. The Informant stated that the expiry dates of both 'specials' were weeks away, and when he attempted to book his flight, none of the special fares were available for the dates on which he wished to travel, and further, he was quoted a significantly higher fare. The Informant was of the view that provisions were not made for a reasonable number of persons to take advantage of the special fares.

Under Section 40 of the Fair Competition Act (FCA), failure to supply a reasonable amount of a good represented for sale at a bargain price, amounts to a breach of the Act. As this issue had surfaced before, the Staff decided to undertake an investigation into the general practices of airline carriers. This would provide useful information to inform policy recommendations. The investigation is underway to determine whether airlines provide a reasonable number of seats when they offer special rates.

Travel - Loss/Damaged Luggage Policy

The Staff is conducting an assessment of the policies of airlines operating in Jamaica with respect to compensation for lost or damaged luggage. The scope of the assessment involves obtaining the written representations which airlines make to their customers and ensuring that representations regarding compensation which is to be paid when a customer's luggage is damaged at the fault of the airline, are honoured in full.

Travel - Information on Visa Requirements

Research was conducted to determine whether travel agents have an obligation to inform their customers about visa requirements of the countries to which they intend to travel. The research revealed that no such obligations have been established under any law or protocol, whether locally or internationally, and the airlines do not bear that responsibility either. The Staff has made recommendations to the travel agencies and the airlines that both groups advise persons, through whatever media, to check the visa requirements before purchasing tickets for travel. A public notice is being drafted.

Education - Schools' Refund Policies

In response to numerous complaints regarding the lack of refund policies in schools, the Commission undertook an investigation into the sector. The

investigation revealed that many schools fail to provide clear refund policies, and oftentimes, regardless of extenuating circumstances, administrations offer few options for persons who wish to obtain a refund. The Staff is of the view that although each institution should reserve the right to determine its policy regarding refunds, this should be done within some regulatory framework. In light of this, an approach was made to the Ministry of Education (the Ministry) suggesting that it propose guidelines within which it might develop a framework for the formulation of refund policies. The Staff and the Ministry are working towards finalizing draft guidelines with a view to policy implementation by the Ministry.

Education - The Regulation of Overseas Tertiary Institutions in Jamaica

The Commission received several complaints against various foreign based educational institutions concerning the quality of education which is being provided as well as the failure to fulfill promises made to Jamaican students upon registration. Our research has revealed that the problem is a global one and that other countries are concerned that the commercialization of tertiary education will lead to mass salesmanship instead of the provision of quality academic programs.

The Staff intends to formulate and submit recommendations based on the solutions which other countries have employed and to share the recommendations with the various agencies involved in the regulation of such institutions.

Food - Accuracy of labels

An investigation into the accuracy of food labels originated from a complaint about a brand of orange juice which had two (2) labels with contradicting information affixed to the container. The Staff embarked on an investigation with the objective of preventing further dissemination of unsubstantiated or otherwise deceptive claims about food. The investigation will involve a coordinated effort with the Bureau of Standards Jamaica (BSJ), which has primary responsibility for

the safety and labeling of products, the Scientific Research Council (SRC) and the Ministry of Health (MOH).

Computers - Computer Malfunction

The objective of this investigation is to determine whether persons who are assembling and selling computers in the local market as new are using sub-standard parts. There have been several complaints of 'new' computers malfunctioning shortly after purchase; and upon returning them to the vendors for repairs to be effected the damage was attributed to one or a combination of the following factors: power surge, unstable power supply, dust damage, user errors, misuse, ants attack, virus and worms and exposure to high temperatures.

The Staff has sought technical assistance from the Mona Information Technology Services (MITS) to determine whether the vendors of these machines have been providing consumers with legitimate reasons for the computers' failure. Discussions have also been held with one of the island's leading computer parts importers.

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 2005/2006 Financial Year the Commission met with various associations and companies. These include the Jamaica Intellectual Property Office, the division of the Ministry of Finance & Planning which is responsible for Procurement Policy, Jamaica Customs, Bureau of Standards Jamaica, Office of Utilities Regulation, and the Jamaica Constabulary Force. Other public education activities took the form of press releases and advisories, television and radio interviews, seminars/workshops and addresses presented by the FTC personnel to service clubs and tertiary level institutions.

The sixth Lecture in the Shirley Playfair Lecture Series was held on Thursday, September 8, 2005, at the Jamaica Conference Centre; and took the form of an interactive panel discussion in which two topical issues were discussed. In an effort to ensure that the information shared reach the widest possible audience the Lecture was filmed for the first time, and highlights were aired on national television in two parts, each part being one hour in duration. The first discussion explored the relationship between Competition and Development, while the second examined Water and Energy Policies and the relevant implications for development. A total of nine (9) experts, i.e. six (6) international and three (3) local, shared their views on both issues, and fielded questions from the audience.

The international experts shared their experiences, utilizing practical examples to describe the benefits of Competition Law and Policy; while the local experts addressed specific policy issues which affect competition in Jamaica.

Dr. Lucy Eugene, Lecturer in the Department of Government of the University of the West Indies moderated the first session. Mr. Gilles Menard, International Consultant on Competition Matters; Mr. Shan Ramburuth, Acting Commissioner

of the Competition Commission of South Africa; Dr. Taimoon Stewart, Senior Research Fellow of the Sir Arthur Lewis Institute of Social & Economic Studies; Mr. Aubyn Hill, Managing Partner of Corporate Strategies Limited, a local consultancy firm; and Mrs. Nezida Davis, Chief of the Atlanta Field Office, Antitrust Division of the United States Department of Justice, were the presenters.

The second session comprised presentations from Professor David Parker, Professor, Business, Economics & Strategy, Aston Business School, Aston University Birmingham; Mr. Hassan Qaqaya, Chief, Advisory Services & Capacity Building Section of the United Nations Conference on Trade & Development, Dr. Raymond Wright, Group Managing Director of the Petroleum Corporation of Jamaica; and Mrs. Linnette Vassell, Community Development & Gender Specialist in the Rural Water Programme, Ministry of Water & Housing. Mr. Ansord Hewitt, Manager Regulatory Affairs of the Office of Utilities Regulation, moderated.

The audience comprised representatives of various interest groups and stakeholders such as the business community, the Jamaican Bar, the Judiciary, Government Ministries and Agencies, and academia.

FTC personnel 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. The FTC also made presentations to students of tertiary level institutions as well as to the senior managers of large firms. The December 2005 issue of the Commission's annual Newsletter was published and circulated to various interest groups.

The Commission continued its public education efforts even though interest at the corporate level is zero to minimal; and continued to participate in both local and international events. An effort to provide training to members of the media

proved futile as none of the invited persons attended a workshop designed specifically for them.

ECONOMIC STUDIES

Together with the Office of Utilities Regulation (OUR), the Staff developed a Position Paper on the provision of Direct Exchange Lines (DEL). The Paper sought to establish the basis on which a dominant fixed carrier should provide access to DEL.

The Staff provided the Minister of Commerce Science & Technology with two briefs: the first examined the competitive issues which may emanate from the introduction of licence-exempt bands for spectrum; and the second examined issues which were responsible for the downward trend in international settlement rates.

In September 2005, the Minister of Commerce Science and Technology, issued a directive to the FTC and the OUR to carry out a study of the telecommunications industry with a view to determining the level of competition in that sector. That work is proceeding.

The Staff continues to examine aspects of the market for petroleum products with particular focus on gasoline retailing. Members of Staff served as expert witnesses in the enquiry into Esso's pricing mechanism being conducted under the Labour Relations & Industrial Disputes Act.

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. A study of the cable television sector, is underway as well. The Telecommunications sector also continues to receive FTC attention and we continue to work closely with the OUR on various issues.

PARTICIPATION IN THE DEVELOPMENT OF TRADE POLICIES

During the Financial Year 2005/2006, the FTC participated in meetings of the CARICOM Community Secretariat to review the Draft Model Law on Competition Policy.

The Commission participated in and or presented at international seminars or workshops hosted by the World Trade Institute, CARICOM Secretariat, International Competition Network (ICN), Organisation for Economic Co-operation and Development (OECD), the United Nations Conference on Trade & Development (UNCTAD), the World Trade Organization (WTO) and the Organization of Caribbean Utility Regulators (OCCUR).

The events included “Competition Law & Policy Workshop” (hosted by the World Trade Institute); “Discussions on Competition Policy in the CSME” (hosted by the CARICOM Secretariat); “Fourth Annual ICN Conference” (hosted by ICN); “Third Latin American Competition Forum”, “Seminar on Abuse of Dominant Positions & Vertical Restraints”, and “Global Forum on Competition & Global Forum on Trade & Competition” (hosted by OECD); “Fifth United Nations Conference to Review All Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices” and “Regional Seminar on Competition Law and Policy: National and Regional Experiences of Latin America and the Caribbean” (hosted by UNCTAD); “Workshop on Competition Policy in a Small Economy” (host by WTO); and “Workshop on Utility Regulatory Communication & Consumer Participation in the Consultation Process” (hosted by OCCUR).

Papers presented carried the following titles:- “How to Enhance the Participation of Developing and Transition Countries in the Work of the ICN”; “Fighting Hard Core Cartels”; “The Supply of Gasoline in Jamaica”; “The FTC’s Efforts in Business Outreach & the Challenges Faced”; “The Status of Competition Law &

Policy in CARICOM”; “UNCTAD’s Experiences In The Voluntary Process Of Peer Review As An Instrument Of Cooperation Between Competition Agencies”; “Competition Policy in the Caribbean: Some Emerging Trends and Developments”; and “The Relationship between Consumer Education and Regulation: References to the Jamaican Experience”.

FTC’s participation in these seminars and conferences was fully funded by the hosting entities, an international funding agency or the participants themselves.

LEGISLATION/REGULATIONS

For reasons already set out in previous Reports there have been no further developments in respect of the establishment of Regulations under Section 40 of the FCA; nor has the process of amending the FCA (Notices and Procedures) Regulations been advanced. Both of these bits of work, together with enactment of Regulations regarding the FTC's investigative and hearing procedures will be influenced by the structure that will be adopted.

Extensive discussions have ensued in an effort to identify and put in place an appropriate structure for the Commission. Contributors to such discussions have included the Legal Reform Department; the Attorney General's Chambers and Ministry of Commerce Science & Technology (MCST) personnel. A Cabinet Submission prepared by the MCST recommended that a separate Tribunal be established, for hearing matters. Having perused the document, the Legal Reform Department requested that it be revised to justify the MCST's recommendation, in light of the alternative offered by the FTC.

In the meantime the operations of the FTC and the effectiveness of the FCA have been reviewed by the United Nations Conference on Trade & Development (UNCTAD). Arising out of that process, the FTC has recently submitted proposals for further amendments to the FCA, all in an effort to strengthen the Act and therefore the enforcement capabilities of the Commission.

OTHER ISSUES

As alluded to above, the FTC and the FCA were reviewed by UNCTAD, in 2005. The process began with fact-finding in Jamaica in May and culminated in a meeting in Antalya, Turkey in November.

There is plan for the FTC to host a Post-Review Press Conference in late April 2006. This event will be used to bring to the attention of the public, some of the adjustments being contemplated for the FCA.

Currently, the Government is carrying out a Regulatory Impact Assessment of a number of Agencies; and the FTC is one of the Agencies that is being reviewed. The Project is scheduled for completion in seven (7) months.

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:

PROJECT 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%

During the period April to November 2005, the Commission undertook two activities under the Project. On June 23rd to 25th, 2005, two of the Commission's Competition Analysts attended a conference on *Advances in the Economics of Competition Law*, organized by Laboratory of Economics, Antitrust and Regulation (LEAR); and on September 8, 2005, the Commission held the Shirley Playfair Forum at the Jamaica Conference Centre.

An amount of US\$8,079 (Local Contribution) was expended on the attendance of the Competition Analysts at the LEAR Conference, while an amount of US\$9,582, US\$7,563 of which will be contributed by the MIF and US\$2,018 by Government of Jamaica, was expended on the Forum.

Other planned activities for the Project, in respect of the period which runs from April 2006 to March 2008, are:

1. Appointment of two experts who will visit Jamaica several times a year. One expert will be an expert on general competition policy matters while the other will be a sectoral specialist in network industries with an emphasis on telecommunications and energy. Each expert will:
 - a) provide structured classroom training and on-the-job training to FTC staff on competition policy, including case studies from other jurisdictions, and guidance on how to identify, investigate and prepare competition cases in the Jamaica context, including the removal of barriers to entry.
 - b) advise staff and provide technical assistance on specific competition cases and prepare a training manual covering the identification, investigation and preparation of competition cases.
 - c) provide continuing support by telephone and through the Internet and/or videoconferences.
 - d) assist with informing the FTC about best practices in competition policy and its enforcement.
2. Upgrade the FTC customized Case Workflow Management System

3. Partially finance FTC Staff attendance at a number of specialized international courses in Competition Law and Intellectual Property.
4. Acquisition of reference materials related to antitrust issues.
5. Hosting workshops/seminars such as the Annual Shirley Playfair Lecture and Judges' Seminar, publication of the Annual Newsletter and newspaper articles.
6. Installation of video-conferencing facilities.
7. Upgrading of the FTC website

International Development Research Centre (IDRC)

In August 2005, the IDRC invited competition authorities in developing countries to compete for research grants to study competition issues in the distribution sector in their countries. Approximately ten grants of up to CAD\$50,000 each were available to competition authorities and partner organizations.

The Jamaican FTC was selected as one of the four competition enforcement agencies named as being successful. The other agencies are those of Argentina, Uzbekistan and Zambia. Argentina proposes to examine the remittance sector, Uzbekistan, the Media and Zambia will study the supermarket sector.

FTC will examine competition-related issues in the pharmaceutical industry in Jamaica; and will collaborate with two research partners in this venture: the School of Pharmacy and Health Science at the University of Technology (UTech) and Consumer Affairs Commission (CAC). The study is scheduled to be completed by the end of summer 2006.

To the extent that there is anecdotal evidence of inefficient distribution of pharmaceutical supplies in Jamaica, the specific objective of the project is to uncover and document factors which are limiting the development of a competitive environment in the pharmaceutical industry. The project will examine

structure of the industry in addition to the conduct of the major players that may be potentially hostile towards competitive forces in the industry.

The general objective is to publicize our findings and propose measures to relevant policy-makers, aimed at neutralising any structural and behavioural obstacles to competition. It is expected that upon these measures being implemented competition will benefit and consumers will gain access to more affordable, higher quality pharmaceutical products which are generated within a more efficient health system.

BUDGETARY ALLOCATION

The following table summarises the budgetary figures for the Commission.

Budgetary Allocation (2003/04 – 2006/07)

Object	2006/2007 Request (\$)	2005/2006 Actual (\$)	2004/2005 Actual (\$)	2003/2004 Actual (\$)
Compensation of Employees	37,109,630	34,470,691	32,078,091	29,150,484
Travel Expense & Subsistence	2,783,288	2,556,500	2,738,603	2,154,431
Rental Of Bldg., Machinery & Equip.	4,320,641	4,540,344	2,570,760	3,105,670
Public Utility Services	1,480,660	1,371,002	1,134,866	899,231
Purchase of other Goods & Services	2,173,411	3,665,158	2,927,184	3,042,661
Asset Purchases	100,000	298,676	199,399	534,231
Total	47,967,630	46,902,371	41,648,903	38,886,708

SUMMARY OF MAIN PROGRAMMES FOR 2006/2007

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 on the various offences against Competition.
- 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 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 CARICOM Inter-Governmental Task Force (IGTF) Meetings, as required and as can be afforded;
- 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;
- Developing cooperation with other Competition Agencies, in particular those within the CARICOM region.

SCHEDULE OF EMOLUMENTS FOR SENIOR OFFICERS

Post	Basic Salary p.a
Executive Director	4,299,346
General Manager	2,904,409
Senior Legal Counsel	3,050,041
Competition Bureau Chief	2,440,033

Note: A non-taxable Motor Vehicle Allowance of \$477,708 per annum is paid to each Officer



AUDITOR GENERAL'S DEPARTMENT
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**Auditor General's Report
To the Board of Directors
of the Fair Trading Commission**

Report on the Financial Statements

I have audited the accompanying Financial Statements of the Fair Trading Commission which comprise the balance sheet as at March 31, 2006, the statements of income and expenditure, changes in equity and cash flow for the year then ended and a summary of significant accounting policies and other explanatory notes.

Management's Responsibility for the Financial Statements

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.

Auditor's Responsibility

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 judgment, 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 the 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.

Opinion

In my opinion the Financial Statements give a true and fair view of the financial position of the Fair Trading Commission as at March 31, 2006, and of its financial performance, and its cash flows for the year then ended in accordance with generally accepted accounting standards.

Report on Additional Requirements of the Fair Competition Act

I have obtained all the information and explanations which, to the best of our knowledge and belief, were necessary for the purpose of the audit. In my opinion, proper accounting records have been maintained and the Financial Statements are in agreement therewith and give the information required in the manner so required.


Auditor General

**FAIR TRADING COMMISSION
AUDITED
FINANCIAL STATEMENTS
YEAR ENDED 31ST MARCH 2006**

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**FAIR TRADING COMMISSION
BALANCE SHEET
AS AT 31st MARCH 2006**

II

	<u>Notes</u>	<u>2006</u>		<u>Restated 2005</u>
		\$	\$	\$
<u>Non-Current Assets:</u>				
At Cost Less Aggregate Depreciation	(2b & 4)	2,319,755		2,953,055
<u>Current Assets:</u>				
Receivables		161,052		248,962
Prepayments		68,212		64,817
Bank Balance IDB Projects		1,936,166		
Fixed Deposits		1,540,262		
Cash & Bank Balances		<u>1,277,336</u>		<u>998,796</u>
		4,983,028	4,983,028	<u>1,312,575</u>
 Net Assets		 <u><u>7,302,783</u></u>		 <u><u>4,265,630</u></u>

REPRESENTED BY:

Current Liability:

Accounts Payable		1,607,493		3,949,723
Capital Fund	(5)	2,319,755		2,953,055
Revenue - Accumulated Surplus / (Deficit)		<u>3,375,535</u>		<u>(2,637,148)</u>
		<u><u>7,302,783</u></u>		<u><u>4,265,630</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 2006**

III

	<u>Notes</u>	<u>2006</u>	<u>Restated 2005</u>
		\$	\$
Income:	(2c)		
IDB Grant		1,946,320	
Government Grant		44,729,198	36,527,323
Other Income		2,872,248	1,677,758
Appropriations in Aid Fund	(2d)	924,000	171,248
Transfer from G.O.J. Capital Grant		<u>1,138,459</u>	<u>1,339,966</u>
		51,610,224	39,716,295
 Expenses:	(2c)		
Salaries & Other Staff Costs		31,889,080	29,874,361
Travelling & Transportation		3,045,151	2,811,260
Rental		3,503,133	3,950,620
Utilities		1,086,752	1,130,377
Professional Services		2,428,446	2,687,311
Printing & Stationery		407,198	349,040
Postal & Cable		44,935	55,860
Subscriptions		50,959	45,906
Office & General Expenses		144,854	104,181
Repairs & Maintenance		231,162	348,216
Depreciation		1,137,985	974,140
Official Entertainment		8,700	
Staff Welfare		166,792	458,390
Bank Charges IDB		10,153	
Bank Charges		39,223	27,897
IDB Component 2		483,499	
IDB Govt. Portion		624,309	
Miscellaneous Expenses		113,472	205,830
Insurance		<u>181,740</u>	<u>131,719</u>
		45,597,541	43,155,108
 Net Surplus / (Deficit) For The Year		6,012,683	(3,438,813)
 Deficit At The Beginning Of The Year		<u>(2,637,148)</u>	<u>801,665</u>
 Accumulated Surplus / (Deficit) At The End Of The Year		<u>3,375,535</u>	<u>(2,637,148)</u>

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

**STATEMENT OF CASH FLOWS
YEAR ENDED 31ST MARCH 2006**

	<u>2006</u>	Restated
	\$	<u>2005</u>
		\$
Cash Flows From Operating Activities:-		
Net Surplus / (Deficit) Per Accounts	6,012,683	(3,438,813)
Adjustments to reconcile income for the year to net cash provided by operating activities:		
Prior year Adj.		
Interest on cert.of deposit		
Depreciation	1,137,985	974,140
Transfer from G.O.J. & USAID Capital Grant	(1,138,459)	(1,339,966)
Profit on disposal of Non-Current Assets	(127,527)	(1,553,573)
	<u>5,884,682</u>	<u>(5,358,212)</u>
 (Increase)/Decrease in Current Assets		
Accounts Receivable	87,910	(2,839)
Prepayments	(3,396)	5,121
 Increase/(Decrease) in Current Liability		
Accounts Payable	<u>(2,342,230)</u>	<u>2,013,121</u>
 Net Cash Provided By Operating Activities	<u>3,626,967</u>	<u>(3,342,809)</u>
Cash Flows From Investing Activities:-		
Purchase Of Non-Current Assets	(505,159)	(1,908,248)
Proceeds from disposal of Non-Current Assets	128,001	1,919,400
Purchase of Certificate of Deposit	(1,540,262)	
 Net Cash Used In Investing Activities	<u>(1,917,420)</u>	<u>11,152</u>
 Cash Flows From Financing Activities:-		
Capital Fund	<u>505,159</u>	<u>1,908,248</u>
 Net Cash Used In Financing Activities	<u>505,159</u>	<u>1,908,248</u>
 Net Increase / Decrease In Cash And Cash Equivalents	2,214,706	(1,431,948)
 Cash & Cash Equivalents At The Beginning Of The Year	<u>998,796</u>	<u>2,430,744</u>
 Cash And Cash Equivalents At The End Of The Year	<u><u>3,213,502</u></u>	<u><u>998,796</u></u>
 Represented By:		
Certificate of Deposit		
Cash & Bank Balances	3,213,502	998,796
	<u><u>3,213,502</u></u>	<u><u>998,796</u></u>

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

**NOTES TO THE FINANCIAL STATEMENTS
YEAR ENDED 31ST MARCH 2006**

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, 2006 is \$24,794,000.00.

PROJECT FUNDING

4 Different expenditure accounts and bank accounts have been set up to account for expenditure and grants related to specific projects funded by overseas agencies has requested by said agencies.

5 **FINANCIAL STATEMENT 04/05**

Retained Earning has been restated due to an error that has just been detected by the auditors during the audit of 05/06 F/S. GCT amt. of \$8,583.95 was in correctly posted to TELEPHONE EXP. now transferred to GCT REFUNDABLE.

**FAIR TRADING COMMISSION
NOTES TO THE FINANCIAL STATEMENTS
YEAR ENDED 31ST MARCH, 2006**

4. NON-CURRENT ASSETS:

Particulars	GOJ Motor Vehicles	USAID Furniture Fixtures & Equipment	GOJ Furniture Fixtures & Equipment	Total
Cost	\$	\$	\$	\$
Balance b/f 1/4/05	1,996,607	876,678	5,282,643	8,155,928
				0
Additions:2005/06			505,159	505,159
Disposals:2005/06	(355,746)		(702,645)	(1,058,391)
				0
Balance b/d 31/3/06	1,640,861	876,678	5,085,158	7,602,696
Accumulated Depreciation				
Balance b/f 1/4/05	492,485	876,678	3,833,710	5,202,873
				0
Depreciation Charge	328,172	0	809,813	1,137,985
Adjustments / rev.accum.dep. disposal	(355,747)		(702,170)	(1,057,916)
				0
Balance b/d 31/3/06	464,911	876,678	3,941,353	5,282,942
Net Book Value 31/03/06	1,175,950	0	1,143,805	2,319,755
Net Book Value 31/03/05	1,504,122	0	1,448,933	2,953,055

5 CAPITAL FUND

(A) GOJ	2005/06 \$	2004/05 \$
Balance at the beginning of the year	2,953,055	2,384,775
Funds Received during the year	505,159	1,908,246
Less Transfer to Income & Expenditure Account	(1,138,460)	(1,339,966)
	2,319,755	2,953,055

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

SCHEDULE OF EXPENSES
YEAR ENDED 31ST MARCH 2006

	<u>Notes</u>	<u>2006</u>	Restated <u>2005</u>
		\$	\$
Salaries & Other Staff Costs:			
Salaries		21,489,397	16,986,091
Salaries (Temp) & Wages		1,014,030	727,816
Clothing & Robing Allowances		43,605	145,170
Library Allowance			144,000
Meal Allowances		358,325	456,280
Overtime Allowances		201,551	207,084
Statutory Contributions -paid by FTC.		1,044,820	955,761
Statutory Contributions -paid by Accountant Gen.		5,869,857	5,912,874
Health Plan		1,050,254	1,112,468
Pension Plan Contribution	(3)	817,240	1,209,304
Gratuity			2,017,513
		<u>31,889,080</u>	<u>29,874,361</u>
Travelling & Transportation:			
Motor Vehicle Allowances		2,557,709	2,352,734
Mileage Allowances			
Subsistence (Local)			
Cab Fare		12,691	36,825
Petrol & Oil		200,603	111,437
Repairs & Maintenance - Motor Vehicles		118,352	104,703
Air Fare		109,890	139,271
Subsistence (Foreign)		45,906	66,290
		<u>3,045,151</u>	<u>2,811,260</u>
Rental:			
Rental Of Building		3,446,383	3,894,370
Other Rental		56,750	56,250
		<u>3,503,133</u>	<u>3,950,620</u>
Utilities:			
Electricity		411,272	380,753
Telephone & Fax		675,480	749,624
		<u>1,086,752</u>	<u>1,130,377</u>

FAIR TRADING COMMISSION

VIII

SCHEDULE OF EXPENSES
YEAR ENDED 31st MARCH 2006

Restated

2006

2005

\$

\$

Professional Services:

Auditing Fees	3,000	3,000
Advertising & Public Relations	444,802	572,173
Consultancy	47,956	129,425
Consulting (Legal Fees)	225,813	62,713
Stipend (Commissioners)	1,706,875	1,920,000
	<u>2,428,446</u>	<u>2,687,311</u>

Office and General Expenses

Drugs & First Aid	9,969	7,211
Text & Reference Books	36,922	14,227
Food & Drinks	97,964	82,744
	<u>144,854</u>	<u>104,181</u>

Miscellaneous Expenses

Sanitation, Security Services, Donation, etc.	113,472	205,830
	<u>113,472</u>	<u>205,830</u>