

ANNUAL REPORT 2010-2011
FAIR TRADING COMMISSION



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COMMISSIONERS

DR. DERRICK MCKOY was appointed Chairman in February 2008. He served as a Commissioner from 1996 to 1998 and was Contractor-General of Jamaica from 1998 to 2005. He also serves as Chairman of the Jamaica Antidumping & Subsidies Commission. An attorney-at-law, Dr. McKoy has consulted in Jamaica and the broader Caribbean in the areas of competition law and policy, utilities regulations, and public sector reform.

MR. JASPER BURNETT, C.D., a Chartered Accountant, has been Commissioner since June 1998. A member of the Public Accountancy Board since 1977, he served as President of the Institute of Chartered Accountants of Jamaica (ICAJ) between 1977 and 1980. He was a Council Member of the ICAJ from 1974-82 and is Founder and First Editor of the ICAJ's Magazine 'CHARTER'.

MRS. DOROTHY CARTER-BRADFORD was appointed as a Commissioner in July 2008.

MR. ROBERT COLLIE, an Attorney-at-law by profession, was appointed Commissioner in April 1, 2010 and resigned June 30, 2011.

MR. CHRISTIAN TAVARES FINSON, an Attorney-at-Law by profession was appointed Commissioner in April 1, 2010 and resigned January 13, 2011.

CHAIRMAN'S REMARKS

For one reason or another the Banking sector has for several years drawn the attention of, and commentary from, a wide cross section of Jamaican people at all levels of the social ladder. The Fair Trading Commission (FTC), took the decision early in the Financial Year to focus efforts on the theme “Competition in the Banking Sector”, and conducted a comprehensive, in-depth and insightful market study on bank fees and charges. This theme also formed the discussion of our annual Shirley Playfair Lecture in which the attendance levels was the highest ever of all the previous ten hosting; as well as several radio and television interviews and newspaper articles, which placed the FTC at the forefront of the minds of Jamaicans.

Of significance as well was the many competition advocacy interventions, as the FTC continued to advise on Government policy to several Government Ministries, Departments and Agencies as well as to the CARICOM Secretariat on a range of regional and international trade and competition issues. This demonstrates that our area of expertise is of relevance to, and has implications for, many economic sectors and is taken seriously by the Commission.

The case resolution rate rose to 73% by the end of the Financial Year, the highest it has been for a few years. With cases of misleading advertising still at the forefront of our plate, the telecommunications sector continues to be the sector that requires most of our energy and resources. It is notable that the Staff has demonstrated the capacity to undertake and successfully handle these complex issues and to effect the changes that are necessary in this ever changing market. Their ability to tackle the relevant issues in several sectors is one of the benefits from the capacity building project that ended in the previous Financial Year.

Derrick McKoy

EXECUTIVE DIRECTOR'S REMARKS

During the year a significant number of cases involving two sectors, the telecommunications and financial and insurance services sectors, were investigated. Of particular note is our market studies on these two sectors which highlighted several areas in which competition may be enhanced.

Firstly, in the telecommunications sector, we examined the strategy of market participants in the setting of “fixed to mobile” termination rates; and found that there is likely harm to consumers in the fixed and mobile voice services market. To resolve this issue, we recommended that said termination rates be regulated by the Office of Utilities Regulation.

In addition, we investigated 165 cases relating to telecommunications services, primarily misleading advertising complaints of various forms. Our intervention resulted in service providers modifying their behavior with respect to their marketing practices.

The financial and insurance services sector has been vibrant for several years and has been the focus of attention and commentary from consumer advocates who believe that commercial banks should offer greater value to consumers. The FTC issued its assessment on whether any bank or groups of banks could be hindering competition, focusing on fees charged on ancillary services offered by banks.

Our Annual Shirley Playfair Lecture also focused on the Banking Sector; and the presenters, the Honorable Audley Shaw, Minister of Finance & the Public Service, and Mr. Bruce Bowen, President and Chief Executive Officer of the Bank of Nova Scotia Jamaica Limited, gave their perspectives on growing the Jamaican economy through a competitive banking environment.

Competition advocacy efforts took various forms with several policy makers and Government Departments including the Office of the Prime Minister, the Office of Utilities Regulation, the Anti-Dumping & Subsidies Commission, the Ministry of Foreign Affairs & Foreign Trade, the Broadcasting Commission and most importantly, our parent Ministry, the Ministry of Industry Investment & Commerce. Naturally, we continued to work closely with the CARICOM Secretariat and the CSME Unit on regional trade and competition issues lending expertise on several matters.

Included in our work program for the 2011/2012 Financial Year are (a) advising policymakers on the implications of existing and proposed policies to ensure that those policies do not result in the hindering of competition; (b) undertaking industry on the motor vehicle insurance and electricity sectors; (c) placing increased emphases on enforcing the provisions of the FCA through the Courts; and (d) focusing on cases which have significant actual or potential adverse effect on the market and on consumer welfare.

David Miller
Executive Director

ROLE AND FUNCTION

Established in 1993, the FTC administers the Fair Competition Act (FCA), which provides for the maintenance and encouragement of competition in the conduct of trade and business and in the provision of services in Jamaica, with a view to ensuring that markets are competitive and that consumers are provided with competitive prices and product choices.

In that regard, the functions of the FTC are to:

- To carry out, on its own initiative or at the request of the Minister or any other person, investigations in relation to the conduct of business in Jamaica in connection with matters falling within the provisions of the FCA;
- To advise the Minister on matters relating to the operation of the FCA;
- To make available to businesses and consumers, general information with respect to their rights and obligations under the FCA;
- To cooperate with and assist any association in developing and promoting the observance of standards of conduct for the purpose of ensuring compliance with the FCA; and
- To undertake studies and publicize reports and information regarding matters affecting the interests of consumers.

The FCA contains two broad categories of prohibitions - those dealing with anticompetitive behaviour and those dealing with consumer protection. Regarding anticompetitive behaviour, the FCA addresses abuse of dominance, agreements that substantially lessen competition, exclusive dealing, market restriction, resale price maintenance, tied selling, price fixing and bid rigging. Regarding consumer protection, the FCA addresses misleading advertising, sale above advertised price, double ticketing and the unavailability of goods advertised at a bargain price.

For the purposes of conducting investigations, the FTC has the power to obtain any information that it considers necessary. Where the Court determines that the FCA has been breached, the Act allows for a fine of up to JA\$5 million in the case of an enterprise and up to JA\$1 million in the case of an individual.

PRIORITY PROGRAMMES FOR FY 2010-2011

For the Financial Year 2010-2011, the FTC set the following four broad programmes as its main priorities:

1. Focus increasingly on matters that raise significant competition concerns in key markets, thereby encouraging competitive markets and improving consumer welfare.
2. Disseminate information to all relevant stakeholders on matters of competitive significance.
 - Issue advisories, opinions, guidelines, publications; and execute media campaigns.
 - Organize seminars, workshops and meetings specifically with manufacturers and distributors on how to identify the various offences against competition.
 - Continue to collaborate with the Office of Utilities Regulation, as well as the Telecommunications department of the Office of the Prime Minister, to promote competition in the telecommunications industry.
 - Participate in, and organize appropriate forums for policy makers within the public sector as well as the Judiciary, to strengthen their appreciation of competition issues in their decision and law making processes.
3. Provide guidance to local institutions, CARICOM Secretariat and the CSME Unit on issues relating to competition law and policy within the region.
4. Improve the technical and administrative capacity of the Staff.

PERFORMANCE RELATING TO EACH PROGRAMME

1.0 Matters of Significance to the Competitive Environment

1.1 Complaints handled

Over the period April 1, 2010 to March 31, 2011, the FTC investigated a total of 428 cases. This comprises 158 cases that were unresolved at the end of the previous Financial Year; and 270 cases which were received during the 2010/2011 Financial Year. For the current review period, 312 cases were resolved and closed - a resolution rate of 72.9%. Matters relating to the telecommunications sector represented the largest category of complaints received, amounting to 39% of the matters dealt. (See Table 1 below).

Of the 428 cases investigated during the year under review, 308 (72%) were classified as matters concerning 'misleading advertising' (MA); 53 (12%) were classified as offences against competition; four as requests for opinion; and two as sale above advertised price. Sixty-one (14%) complaints were considered as being outside the purview of the FCA; and were therefore transferred to relevant agencies, where appropriate.

Table 1: Cases investigated during 2010/2011 Financial Year

	Total	Telecoms	Motor vehicle	Financial Services & Insurance	Household Appliances & Supplies	Other
Unresolved at March 31, 2010	158	56 (35%)	13 (8%)	14 (9%)	8 (5%)	67 (42%)
Received	270	109 (40.4%)	32 (11.9%)	28 (10.4%)	25 (9.3%)	76 (28.1%)
Total Cases investigated	428	165 (39%)	45 (11%)	42 (10%)	33 (8%)	143 (33%)
Closed	312	114 (37%)	38 (12%)	33 (11%)	27 (9%)	100 (32%)
Unresolved at March 31, 2011	116	51 (44%)	7 (6%)	9 (8%)	6 (5%)	43 (37%)

Table 2: Complaints received (by category) during the 2010/2011 & 2009/2010 Financial Years

INDUSTRY CATEGORY	COMPLAINTS RECEIVED			
	2010/2011		2009/2010	
	Number	Percentage of Total	Number	Percentage of Total
Telecommunications	109	42	59	28
Household appliances & supplies	25	8	26	10
Motor Vehicles	32	13	20	10
Financial & insurance services	28	11	18	9
Real estate & construction	7	2	15	7
Education	19	7	15	7
Professional services	8	3	8	4
Transportation	5	2	6	3
Government services	3	1	5	2
Other	34	12	37	18
TOTAL	270	100	209	100

1.2 Selected investigations completed

▪ Telecommunication

Completed investigation into LIME's complaint against Digicel with respect to Digicel's fixed to mobile termination rates. In summary, the FTC's conclusion and recommendations are as follows:

- Digicel's pricing strategy to retail its on-network fixed to mobile (FTM) voice service at a price which is less than the price it charges for mobile voice termination (MVT) services, which is an essential input for rivals to offer competing voice services, is likely to substantially lessen competition in the market and harm consumers in the fixed and mobile voice (FMV) services market in Jamaica.
- The most effective means to restore competition would be to alter the regulatory environment to remove Digicel's undue influence over the price of its rivals' voice services.
- Given that it would take considerable time for the aforementioned suggestion to be implemented, it was recommended that the price that Digicel charges its business fixed-line voice (BFV) subscribers to call its mobile voice (MV) subscribers be no different from the price that Digicel causes LIME to charge its BFV subscribers to call Digicel's MV subscribers. Further, this price should be no greater than is necessary to cover an appropriately measured cost of providing the service.

Digicel was advised of the FTC's decision and was urged to take the requisite steps to implement the recommendation with respect to adjusting its prices.

At the end of the Financial Year Digicel had not adjusted its pricing policy; and therefore the FTC is preparing to initiate Court proceedings.

Other Telecommunications Investigations

During the period the FTC investigated 165 cases relating to telecommunications services. Of that amount 140 relate to allegations of misleading advertising and 15 relate to price fixing, price discrimination and excessive pricing with respect to wholesale rates. The remainder involves requests for information and matters which fall outside the jurisdiction of the FCA.

The misleading advertising complaints include issues relating to expiration of call credit, non-coverage of internet service, bonus credit and SIM card exchange promotions, defective equipment, free call time, changes to product offerings as well as inadequate stock levels of promotional items. Specific attention was drawn to interconnection, directory enquiry and internet services.

The FTC's intervention into the telecommunications sector during the year has resulted in the following actions by service providers:

- Advertisements were pulled from the air
- Advertisements were modified
- Call credit validity periods were adjusted
- Defective equipment was replaced
- Consumers were refunded
- Stock levels were maintained to adequately support promotional offerings
- Treatment of rollover minutes was modified

▪ Motor vehicle

- i. The FTC investigated several complaints regarding public auctions conducted by the Transport Authority (TA) where it sold motor vehicles and collected money for vehicles for which it did not have proper title or certificates of fitness. Consumers who purchased those vehicles were unable to have them transferred into their names and their request to the TA for a refund, had not been agreed upon. The FTC recommended, and it was agreed, that the affected consumers should be given a refund.
- ii. The FTC has investigated several complaints relating to the satisfactory honoring of warranty with respect to some Chinese manufactured motor vehicles. These matters are being examined with a view to taking legal action against the respective Respondents. Accordingly, the Staff is in the process of obtaining signed affidavits from the Informants to proceed to filing suit in Court.

▪ Other Matters

The FTC also investigated complaints relating to several sectors with a view to entering into Consent Agreements with the respective Respondents. The sectors are appliances,

education, real estate and eye care services. All matters relate to breaches of section 37 of the Fair Competition Act (FCA), which addresses misleading advertising.

Investigated Appliance Traders Limited (ATL) with respect to its 2010 Pre-Valentine's Day Sale; and concluded that the action of ATL is likely to amount to a breach of section 37 of the FCA. Accordingly, a Consent Agreement between the FTC and ATL was entered into; and ATL paid costs of \$125,000 to the FTC. The FTC had received complaints alleging that ATL had changed, during the sale period, the prices on items it had advertised in a newspaper; and therefore ATL failed to provide items at the prices at which they were advertised.

In the matter concerning the provision of education services, the allegations relate to the failure of an institution to honor commitments made to students; while in the case of real estate, a developer failed to provide house purchasers with several fixtures which were stipulated in their Sales Agreements. The provider of eye care products published several advertisements which the Staff has determined to be false and/or misleading in a material respect. With respect to the eye care services, the Staff is in the process of filing suit, given that the Respondent has not been cooperative. The others are being actively pursued.

Matters of these natures affect consumers not only directly but also in an indirect way as they distort the competitive environment within which all enterprises operate. Misleading Advertising allegations are therefore actively pursued with a view to effecting behavioral change on the part of merchants generally, and specifically in circumstances in which merchants demonstrate blatant disregard of their obligation under the FCA. Where there are clear potential breaches of the FCA, legal actions are pursued.

1.3 Market studies

▪ Commercial Banking

The FTC completed a market study on the nature and extent of competition in the commercial banking sector. The objective of the study was to assess whether any bank or groups of banks could be hindering competition; and focused on fees charged on ancillary services offered by banks. The report included recommendations for enhancing competition in the sector.

The study covered the following issues:

- the structural characteristics of the commercial banking sector;
- the players and their respective income streams;
- the range of fees and charges levied by players, on the services offered;
- the level of competition between the players;
- factors which may facilitate collusion in the sector and the likelihood of collusion between the players;
- the types of information provided by the banks;
- whether and the extent to which the banks contribute to consumer ignorance;
- the main channels through which consumers acquire information on retail banking services.

The main conclusions were:

- The main source of income for the sector is interest charges, which contributes between 60 and 80 percent to net revenue, while income from fees and commission contributes between 7 and 20 percent.
- Revenues generated through fees and commission for services are considerably greater than the reported expenses incurred in providing those services; which suggests that there is significant room to lower fees and still cover attendant expenses.
- Lower fees stimulated by greater competition in the sector would not compromise the opportunity for banks to sustain their operations.
- The larger banks have consistently secured approximately 75 percent of the revenue generated by ancillary services despite charging, on average, the highest fees and charges.
- There are significant differences in the level of fees charged by the larger banks compared to those charged by the smaller banks; and over the period 2005 to 2009 the gap has widened considerably suggesting that the smaller banks exert limited competitive restraints on the larger banks.
- Based on deposits, assets, branches and revenue, the commercial banking sector is highly concentrated, in that the two largest banks, BNS and NCB, together operate 85 of the 130 branches island wide and account for over 75 percent of the sector's revenue. Other findings are (i) that there are important differences in the services offered by banks, with respect to convenience and/or accessibility; (ii) banks must have an expansive branch network to be competitive; and (iii) consumers are not adequately informed about banking services.
- Regarding the assessment of competition in the sector, (i) it is unlikely that any individual bank, without collaborating with at least one other bank, could hinder competition; (ii) if Jamaica National Building Society, the country's largest building society, entered the commercial banking sector, its entry is likely to enhance competition in the sector; and (iii) without improvement in information available to consumers, they are unlikely to mitigate attempts by any bank, or group of banks, to hinder competition.
- Given the disparity in the level of fees, and the lack of information on the part of consumers, there is significant room for promoting competition within the sector, with improvement in the flow of adequate information as well as the use of information by consumers.

The recommendations are:

- a. Mechanisms should be put in place to ensure that banks provide adequate information on their services.
- b. Facilities should be put in place to make it easier for consumers to access information about banking services.
- c. Mechanisms should be put in place to make it easier for banks to access customer information.

With respect to recommendation (c), the FTC has learnt that the Credit Reporting Act was passed in November 2010. Prior to the passing of this legislation, there was legislation governing pre-authorized entities to collect, update and retrieve

information on the credit history of consumers (including businesses). We are unsure as to whether any entity has yet been approved by the Bank of Jamaica to provide the relevant services.

The report is available on the FTC website at www.jftc.gov.jm, in the section entitled *Research* under *Industry Studies*.

Following are some of the changes in the commercial banking sector since the release of the study:

- NCB's suspension of fees on dormant accounts.
- NCB's launching of its "*Want to cut you bank fees?*" campaign.
- NCB's car loan promotion in which the relevant fees are reduced.
- FCIB's "*Switch & Gain*" advertising campaign, which offers among other benefits, cash rebate and lowered fees for new account holders.
- FCIB's car loan promotion in which no commitment fee is charged and a "cash back" is given.
- First Global Bank's advertising of its online banking capabilities as well as its "*Now Showing*" advertising campaign.
- Pan Caribbean Bank's "*I am **more** than a number...*" advertising campaign.
- RBTT's increased outdoor advertising; and reductions in several of its fees.
- The Jamaica Bankers Association has indicated that it is in the process of developing a Voluntary Code of Conduct which will establish minimum notice periods for the introduction of new or increased fees, review frequency and on-going customer awareness and education.
- Increased advertisements that are geared towards product differentiation and quality of service and not necessarily new products or services.

▪ Health Insurance

The FTC has collected relevant information geared at completing a study of the health insurance market in Jamaica. The objective of the study is to measure the impact on competition of the consolidation of Blue Cross Jamaica Limited and Sagcor Life Jamaica Limited. This study is slated for completion in the next Financial Year.

2.0 Dissemination of Information

2.1 Public lecture

During the review period the FTC hosted its annual lecture on competition law and policy aimed at highlighting relevant competition related matters; strengthening the target groups' appreciation; and improving their knowledge of competition issues.

11th Annual Shirley Playfair Lecture

The 11th Lecture in the Shirley Playfair Lecture Series was held on Thursday, September 9, 2010. The theme was “Competition and Regulation in the Banking Sector”; and the speakers were the Honorable Audley Shaw, Minister of Finance & the Public Service, and Mr. Bruce Bowen, President and Chief Executive Officer of the Bank of Nova Scotia Jamaica Limited.

Minister Shaw’s presentation addressed the need for growth of the economy, as the ultimate and only solution to our economic dilemma. He emphasized that the financial services sector and the commercial banks have a critical role as the economy is nurtured to good health. He urged banks to implement measures to improve efficiency and competitiveness; and he encouraged them to seek new technological methods outside the traditional bank client/teller contact in relation to how clients carry out their transactions.

Mr. Bruce Bowen, while acknowledging the special position held by commercial banks in the financial sector, pointed to the other institutions (e.g. credit unions and building societies) with which banks compete. He raised the point that the regulation of some financial services will necessarily lead to an adjustment in the pricing strategy of banks in relation to non-regulated services to compensate for any fall out in revenue.

The full presentation made by each speaker is available on the FTC website, www.jftc.gov.jm.

Following the Lecture, a vibrant, interesting and provocative discussion ensued in which several members of the audience posed questions and directed comments to the speakers. This Discussion session was moderated by Dr. McKoy, Chairman of the FTC; and lasted for approximately 30 minutes.

The Lecture was well attended. Several financial institutions were represented, such as the National Commercial Bank, Jamaica National Building Society and the Credit Union League. Other attendees included representatives of Government Ministries and Agencies, the business community, legal fraternity and the media. Comments and questions from these representatives were quite instructive; and therefore spurred further interests and discussions.

In the hour preceding the Lecture, both Chairman McKoy and Mr. David Miller, Executive Director of the FTC, were interviewed on Power 106’s radio talk show “*Both Sides of the Story*”, hosted by Mr. Dervan Malcolm. Like the previous year, the show which was carried live on the radio, was also streamed live on the Internet. Excerpts of featured presentations as well of the opening and closing remarks were carried live. As part of the promotion of the event, on September 3, 2010 the Executive Director participated in an interview on the radio talk show *Independent Talk*, hosted by Ralston Hyman and Ronald Thwaites.

2.2 Publications

The FTC published its annual magazine and quarterly on-line newsletter, during the review period.

- *Competition Matters 2010* — the 15th issue of the FTC’s annual magazine was published in January 2011 and distributed to approximately 600 persons, both locally and overseas. The theme of the 36-page magazine is “*Market Structure and Economic Performance*”. The articles focus on areas such as structural changes in the private health insurance and

banking industries, current market structures of the electricity and cement industries and the impact of the banking structure on the manufacturing sector.

- *FTCNewsline* — this on-line quarterly newsletter contains information on competition matters dealt with by the FTC. The aim is to provide insights into the work of the FTC; and to assist persons in better identifying issues that may pose competition concerns.

2.3 Other outreach activities

- 1) Senior Legal Counsel presented a paper entitled “*Regional & International Issues in Trade & Commerce Regarding the Enforcement of Competition Law*”, at the Northern Caribbean University’s 2-day conference on *Current Trends and Issues in Business: the Recession and Beyond*.
- 2) The FTC contributed an article to the West Indian Law Journal (Vol. 35 No. 1), which was published in August 2010. The article entitled “***The Jamaica Stock Exchange Case: Analysis and Implications***” is written by Miss Wendy Duncan, Legal Officer; Mr. B. St. Michael Hylton, Q.C., O.J., Guest contributor; Dr. Derrick McKoy, Chairman; and Dr. Peter-John Gordon, Commissioner. The article is an amalgamation of the presentations made at the July 16, 2010 FTC hosted Symposium, the objective of which was to revisit the arguments and solicit views from the public as to the most appropriate body to determine alleged contraventions of the Fair Competition Act.
- 3) The FTC issued a Press Advisory informing consumers and telecommunications service providers of its intention to vigorously pursue as breaches of the Fair Competition Act, advertisements which use the word ‘unlimited’ in a manner which does not convey its ordinary meaning. The FTC advised that calling plans which are capped or otherwise qualified, and which are referred to as ‘unlimited’ or any other word which may convey a similar meaning, will be treated as being misleading or likely to mislead the public.
- 4) The FTC issued a Press Advisory to indicate that it had issued guidelines for telecommunications service providers who alter the terms and conditions under which pre-existing services are offered to the public in a manner which is likely to affect consumers adversely. In light of the growing number of complaints, the FTC formulated a set of general Guidelines which should help to prevent misunderstandings and reduce complaints of this nature in the future.
- 5) The Competition Bureau Chief presented a lecture at a graduate course on Microeconomic Policy Analysis offered by the Sir Author Lewis Institute for Social and Economic Studies (SALISES) on the Mona Campus of the University of the West Indies.

2.4 Competition advocacy: informing government policies

The FTC’s advocacy efforts took various forms with several policy makers and Government Departments. Among them were:

- 1) Submitted to the Office of the Prime Minister (OPM) comments on the February 2010 version of the draft Information and Communication Technologies (ICT) Policy. FTC’s

comments relate to whether the proposed ICT Regulator should have jurisdiction over *ex-ante* competition issues as against having the FTC retain jurisdiction over all competition issues, with an Inter-Regulators Forum deciding on matters for which there are differing views.

- 2) Submitted to MIIC comments on the draft Cabinet Submission regarding amendments to the Office of Utilities Regulation (OUR) Act. The FTC's comments focused on the provisions that speak to competition and consumer related issues.
- 3) As a part of the consultative group that is looking at implementing number portability in Jamaica, the FTC met with the Consultant and the Office of Utilities Regulation and reviewed some of the conclusions. The Consultant's work suggests that number portability could, to some extent, improve competitiveness, primarily in the mobile market.
- 4) Submitted to the MIIC comments on the proposed move to designate the Sugar Industry Authority (SIA) as the sole authorized importer of refined sugar, a move which has arisen primarily because of reports of a shortage of refined sugar. The FTC opined that the designation of the SIA as the sole importer of refined sugar for the retail trade is unlikely to adversely affect competition in any relevant product market in Jamaica.
- 5) Submitted to MIIC comments on Ministry Paper #73, Revised Motor Vehicle Import Policy. The FTC explained that over the years it has been receiving complaints from consumers regarding the refusal of some dealers to repair parts which are said to be attached to, or are integrally related to essential parts that are covered under warranty. The FTC noted that it may be unclear whether those ancillary parts are covered under the stipulated three-month warranty period. The FTC has suggested that in addition to the schedule which lists the essential parts (engine, transmission, differential, etc) the section should also indicate whether the connected parts or attachments, if any, are also covered under the warranty.
- 6) With respect to the rates of duty being charged on imported tyres, reiterated to the MIIC, the need for the rates of duty on imported used tyres that are not subject to any manufacturing process before distribution to be equivalent to the rate charged on imported new tyres. The policy results in one group of suppliers (importers of used tyres) having a cost advantage over their rivals (importers of new tyres); and has caused a distortion in the market for tyres. Any advantage gained by an enterprise that is not as a result of that enterprise being more efficient than its rivals, will lead to market distortion, which ultimately harms consumers.

Both new and used tyres are considered to have the same set of actual and potential customers, given that both types of tyres serve the same purpose. The fact that there may be some consumers who buy only new tyres does not necessitate two distinct markets. Also, there is no reason to believe that a consumer who has always purchased new tyres in the past will never purchase a used tyre, and vice-versa. Given that from the perspective of the consumer (from the demand side), new and used tyres are considered substitutes, the supplier of used tyres poses a competitive constraint on the supplier of new tyres, and vice-versa; and therefore new and used tyres are considered to be in the same market for the purpose of evaluating competition.

To promote competition in a sector, it is important that one group of suppliers are not given a competitive advantage over their competitors that is unrelated to their superior efficiency. The FTC concludes therefore that the rate of duty on new and used tyres should be the same.

- 7) The FTC participated as an interested party in the Anti-Dumping and Subsidies Commission's investigation into the "injurious dumping in Jamaica of Ordinary Portland Grey Cement originating or exported from the Dominican Republic", by submitting a paper entitled "*Antidumping and Competition Law in Conflict*". The paper provides information concerning the role of imported cement in the competitiveness of the domestic cement market and the effect that importation has on consumer welfare. It concluded that prohibiting the conduct described by Anti-Dumping legislation as "injurious dumping," served to unduly stifle competition in the domestic market and, accordingly, such prohibitions have a negative effect on consumer welfare.
- 8) Senior Legal Counsel participated in a discussion with representatives of the Ministry of Foreign Affairs & Foreign Trade, the MIIC and the Anti-Dumping & Subsidies Commission, on building the capacity of the relevant Jamaican Agencies, in trade issues. The discussion was led by a Consultant hired by the CARICOM Secretariat.
- 9) The Competition Bureau Chief participated in the CSME Unit's "Meeting to Review Output from Consultancy on Mergers & Acquisitions in the CSME". The meeting was held in Barbados and hosted by the CSME Unit of CARICOM. Most CARICOM member states were represented.
- 10) Upon the request of the CARICOM Secretariat, provided price and costing data for cement sold in the Jamaican market by Caribbean Cement Company (CCC) for the period 1992 to 2009. The FTC also provided the Secretariat with data on the cost of importing cement from outside the region.
- 11) With respect to the Media Policy Consultation which involves the overhaul of the *Broadcasting Radio & Re-Diffusion Act of 1949*, the FTC submitted comments to the Broadcasting Commission (BC).

It was noted that the Policy seeks to incorporate and recognize the importance of competition principles through participation and equitable treatment of all like services in the industry, in so doing, ensuring a level competitive playing field. The FTC pointed out that having standardized, transparent processes with pre-determined parameters for evaluating licenses are critical factors in establishing and maintaining a competitive environment. Further, that these principles should be embedded in the new legislation.

The FTC also pointed out that the new legislation should expressly recognize the specialized role of the FTC in respect of competition issues, so that the FTC's jurisdiction is neither excluded nor misunderstood. Also, that concurrent jurisdiction is essential to proper oversight and therefore, relevant procedures and parameters which govern the interaction between the FTC and the BC should be clearly defined.

Included in the Policy were proposals on substituted advertising, for which specific competition concerns have been expressed by industry stakeholders. The FTC asked

that it be provided with an opportunity to examine the proposals and concerns in greater detail.

2.5 Speeches and presentations

- 1) The Competition Bureau Chief participated in the CSME Unit's Competition and Consumer Welfare Workshop on April 12th and 13th in Trinidad & Tobago; and May 3rd and 4th in Guyana. He presented a paper entitled "*Consumer Welfare within Competition Policy*".
- 2) The Executive Director participated in the International Development Research Centre's (IDRC) Pre-ICN Forum on Competition and Development, in Istanbul, Turkey. The theme of the Forum was "*The Customer is King and (Queen): Bringing the Consumer back to Competition Law*"; and the Executive Director's presentation entitled "*Competition and Consumer Protection – The Relationship in Practice in Developing Countries*", described the relationship between the FTC and the Consumer Affairs Commission and the interaction between both Agencies in enforcing the Fair Competition Act and Consumer Protection Act; the ultimate objective being to improve consumer welfare in Jamaica.
- 3) Senior Legal Counsel participated in the UNCTAD-SELA II Regional Seminar on Trade & Competition & Preparatory Meeting for the VI UN Conference to Review All Aspects of the Set of Principles and Rules on Competition, held in Brazil. His presentation entitled "*The Appropriate Design and Enforcement of Competition Law and Policy in Countries at Different Stages of Market Development: The case of CARICOM*", focused on the governance arrangements in CARICOM for the enforcement of competition law for developing countries of the region at different stages of development.
- 4) Senior Legal Counsel participated in a workshop on Competition Policy & Regional Integration in Developing Countries, organized by the Max Planck Institute for Intellectual Property, Competition & Tax Law. The workshop focused on the competition related issues that each regional competition framework faces; such as the historical context, the political situation, the economic features and size of the member states, the degree of intensity of trade within a common market, the legal traditions and the institutional setting that ought to be taken into account when crafting and implementing competition rules in Regional Trade Agreements.
- 5) The Staff participated in a seminar on Legal Aspects of Marketing hosted by Trade Management Services Limited in which topics such as signage, trademark and copyright, gaming, competition law and packaging, labeling and branding was discussed.
- 6) A Legal Officer was interviewed on the radio talk show *Mild Alternative* on HOT102 FM. Our Legal Officer spoke primarily on advertisers' responsibility to disclose relevant information in their representations to the public.
- 7) The Executive Director participated in the "*Regional Seminar on Banking & Credit Financial Services and Consumer Protection in the Caribbean: Towards a Regulatory Policy Framework*". The Seminar was hosted by Consumers International as a part of its project geared at promoting consumer protection in the Caribbean, specifically, to create a code of conduct for the sector. The Executive Director's presentation entitled "*The Nature & Extent of Competition in Jamaica's Commercial Banking Sector: Consumer's Obligation to the Competitive Process*" looked at the structure of Jamaica's banking sector, threats to the

competitive process, some of the early results of the FTC's study on the sector, and made reference to the 2005 Code of Conduct that the FTC had created for the petroleum sector.

- 8) The Executive Director participated in the Sixth United Nations Conference to Review all Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices. The Conference was hosted by the United Nations Conference on Trade & Development (UNCTAD) and the Executive Director's presentation entitled "*Jamaica's Peer Review Experience – the 2005 Process*", discussed the experience of competition agencies which have undergone a voluntary peer review. The complete paper which supports the presentation included a status of the recommendations that were made in the peer review. Of the 28 recommendations that were made in 2005, to date, 22 of them have been adopted and implemented, either wholly or in part.

3.0 Provide Guidance to Local and Regional Institutions

- 1) Senior Legal Counsel participated in discussions on the WTO Trade Policy Review hosted by the Ministry of Foreign Affairs & Foreign Trade, where his input centered on the sections on Competition Policy.
- 2) Submitted to the Ministry of Foreign Affairs & Foreign Trade, comments on the Competition provisions that are contained in the proposed CARICOM/Canada Free Trade Agreement. Our comments centered on the National Treatment and Most Favoured Nation Treatment (MFN) obligations in the investment Chapter, which are directed at a 'Party' to the Agreement and the sub-national government of a Party to the Agreement.
- 3) Submitted to the CSME Unit of the CARICOM Secretariat, comments on the proposed rules of procedure for the CARICOM Competition Commission (CCC). Senior Legal Counsel had participated in a conference call that included representatives of the CSME Unit, the Trinidad & Tobago Ministry of Trade & Industry, the Barbados Fair Trading Commission, as well as the team of consultants that created the rules.
- 4) As a part of the team headed by the Ministry of Foreign Affairs & Foreign Trade, which is involved in the finalizing of the CARICOM Text on Competition Policy, the FTC submitted comments on the Articles 5 & 6 which cover the treatment of Monopolies and the Definition of Non-Discriminatory Treatment, respectively. The comments were among several issues that were discussed by the Technical Working Group on Trade Related Issues, with a view to presenting them to the next COTED Meeting.

4.0 Strengthen the Technical and Administrative Capacity

4.1 Training

- 1) The Executive Director participated in the International Competition Network's Agency Effectiveness Workshop. The theme was *People and Knowledge Management*, and the discussions centered on current challenges faced by competition agencies; establishing and implementing organizational principles and values; the essential elements of an agency's organizational identity which enable the agency to be effective; career development and skills building; and leadership and succession planning.
- 2) The Chairman and two Commissioners participated in a training workshop for Commissioners of Competition Agencies of the region and Judges of the Caribbean Court of Justice. The Workshop which was hosted by the CARICOM Competition Commission; and covered several aspects of Competition Law & Policy. It was conducted by the Hon. Justice Prof. Frederic Jenny, Chairman, OECD Competition Law & Policy Committee, Prof. Dr. Hanns Ullrich and Prof. Dr. Josef Drexel of the Max Planck Institute for Intellectual Property and Mrs. Vivien Rose, Chairman of the UK Competition Appeals Tribunal.
- 3) The Competition Bureau Chief and General Manager participated in the International Development Research Center's Competition Research Training Workshop, held in Cairo, Egypt. The Workshop addressed the topics and analytical data issues raised in the FTC's proposed study on the commercial banking sector. The proposal was shortlisted

for one of the IDRC's competitively awarded grants valued at Cad\$50,000. Discussions also included general instructions in research methods and in competition policy issues related to the subject matter; as well as experiences of other Competition Agencies in conducting similar studies.

- 4) Two Staff members participated in a Workshop for the staff of competition agencies and government ministries with responsibility for competition matters of CARICOM. Hosted by the CARICOM Competition Commission (CCC), Suriname; other participants included the Attorney General of Belize, and representatives of the CCC and the Guyana Competition Commission.

In all instances attendance to these workshops was funded by external sources.

4.2 Legislative processes

There were 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 pieces of work, together with enactment of regulations regarding the FTC's investigative and hearing procedures are being addressed through the establishment of a Competition Tribunal to hear competition cases.

The second draft Bill containing the relevant proposals for amending the FCA was issued by the Chief Parliamentary Council (CPC) and reviewed by the FTC during the 2009/2010 Financial Year. Comments and recommendations were submitted to the Attorney General's Department in that same year. A response is being awaited.

SUMMARY OF MAIN PROGRAMMES FOR THE 2011-2012 FINANCIAL YEAR

The Commission's goals for the 2011/2012 Financial Year are:

Advocacy

- Advise policymakers on the implications of existing and proposed policies to ensure that those policies do not result in the hindering of competition.
 - Participate in policy discussions at early stage
 - Concentrate on stopping or minimizing competition restrictions
 - Recommend least restrictive means of achieving stated objectives
- Undertake industry studies to demonstrate the benefits of competitive markets to promote a better understanding of the role and function of the FTC in fostering a competitive economic environment.
 - General insurance (motor vehicle)
 - Health insurance
 - Electricity sector

Enforcement

- Increased emphases on enforcing the provisions of the FCA through the Courts, in relation to business conduct deemed inimical to the competitive process to reduce the incidence of anti-competitive business practices.
- Identify and pursue 'winnable' cases – primarily in the sectors in which most complaints are received:
- Focus on cases which have significant actual or potential adverse effect on the market and on consumer welfare. (On average 260 cases are received per year).
- Resolution rate of 80 percent (Currently 72 percent).

Public education

- Informing and educating policymakers, decision makers, businesses and consumers on competition law and policy.
 - Publish annual magazine & quarterly newsletter
 - Host annual lecture
 - Publish newspaper articles
 - Give talks at appropriate forums
 - Appear on radio and television programmes

Regional and international cooperation

- Maintain and enhance presence in the international competition arena to provide advice on regional competition issues; and to further facilitate the growth and development of the capacity of the FTC.

International efficiency

- Streamline and improve internal processes to enhance the delivery of services to all external Stakeholders as well as to the Staff and Commissioners of the organization.

BUDGETARY ALLOCATION

- **Budgetary request & actual expenditure**

The following table summarizes the actual amounts expended by the FTC in each of the three (3) previous Financial Years. Also included is the Budgetary Request for the 2010-2011 Financial Year.

Object	2010-2011 Request (\$)	2010-2011 Actual (\$)	2009-2010 Actual (\$)	2008-2009 Actual (\$)
Compensation of Employees	48,136,947	47,621,397	46,711,950	49,124,006
Travel Expense & Subsistence	5,079,600	5,476,759	5,699,665	5,293,878
Rental Of Bldg., Machinery & Equip.	8,079,000	8,457,377	7,822,701	4,630,470
Public Utility Services	1,912,000	2,017,418	1,927,600	1,848,598
Purchase of other Goods & Services	3,375,000	3,275,276	3,519,138	2,805,038
Asset Purchases	0	223,162	2,444,937	278,610
Total	66,582,547	67,071,389	68,125,991	63,980,600

- **Commissioners Compensation**

Position of Director	Fees (\$)	Motor Vehicle Upkeep/Travelling or Value of Assignment of Motor Vehicle (\$)	Honoraria (\$)	All Other Compensation including Non-Cash Benefits as applicable (\$)	Total (\$)
Derrick McKoy	\$50,000 per month	0	0	0	600,000
Jasper Burnett	\$27,500 per month	0	0	0	330,000
Dorothy Carter-Bradford	\$27,500 per month	0	0	0	330,000
Robert Collie	\$27,500 per month (June 2010-March 2011)	0	0	0	275,000
Christian Tavares-Finson	\$27,500 per month (July – September 2010)	0	0	0	82,500

Notes

1. Where a non-cash benefit is received (e.g. government housing), the value of that benefit shall be quantified and stated in the appropriate column above.

• Senior Executive Compensation

Position of Senior Executive	Year	Salary (\$)	Gratuity or Performance Incentive (\$)	Travelling Allowance or Value of Assignment of Motor Vehicle (\$)	Pension or Other Retirement Benefits (\$)	Other Allowances (\$)	Non-Cash Benefits (\$)	Total (\$)
Executive Director	2010/2011	5,234,262	0	796,500	261,713	0	0	6,292,475
General Manager	2010/2011	4,542,054	0	796,500	227,102	0	0	5,565,656
Senior Legal Counsel	2010/2011	4,619,461	0	796,500	0	0	0	5,415,961
Competition Bureau Chief	2010/2011	4,894,132	0	796,500	244,706	0	0	5,935,338

Notes

1. Where contractual obligations and allowances are stated in a foreign currency, the sum in that stated currency must be clearly provided and not the Jamaican equivalent.
2. Other Allowances (including laundry, entertainment, housing, utility, etc.)
3. Where a non-cash benefit is received (e.g. government housing), the value of that benefit shall be quantified and stated in the appropriate column above.

FAIR TRADING COMMISSION

FINANCIAL STATEMENTS

MARCH 31, 2011

FAIR TRADING COMMISSION

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AUDITOR GENERAL'S DEPARTMENT
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JAMAICA
Email: audgen@auditorgeneral.gov.jm

INDEPENDENT AUDITOR'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, set out on pages 1 to 12, which comprise the Statement of Financial Position as at March 31, 2011, Statement of Financial Performance, Statement of Changes in Equity and Statement of Cash Flows 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 International Public Sector 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, 2011, and of its financial performance, and its cash flows for the year then ended in accordance with International Public Sector 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




Date

Fair Trading Commission
Statement of Financial Position
as at March 31, 2011

		2011	2010
	Note	\$	\$
Non-current assets			
Property, plant and equipment	6	3,527,349	5,723,276
Current assets			
Receivables	7	853,168	897,538
Investment		4,724,023	5,659,378
Prepayments		84,474	47,650
Bank Balances	8	2,909,383	3,269,092
		<u>8,571,049</u>	<u>9,873,658</u>
Current Liabilities			
Accruals	9	27,480,276	23,332,027
		<u>27,480,276</u>	<u>23,332,027</u>
		(18,909,227)	(13,458,369)
Net Assets		<u>(15,381,877)</u>	<u>(7,735,093)</u>
Equity			
GOJ Capital Fund		335,422	2,735,829
Accumulated deficit		(15,717,300)	(10,470,922)
		<u>(15,381,878)</u>	<u>(7,735,093)</u>

Approved for issue on behalf of the Commission on.....^{March 29, 2011} and signed on its behalf by:


Chairman


Commissioner

Fair Trading Commission
Statement of Financial Performance
for the year ended March 31, 2011

Revenue	Notes	2011 \$	2010 \$
Income-IDB		3,124	2,647,205
Income-IDRC		116	1,251
Income- GOJ Subvention		66,327,311	64,198,611
Appropriations-In-Aid Fund		125,000	126,333
Total Operating Revenue		<u>66,455,551</u>	<u>66,973,400</u>
Operating expenses			
Compensation of Employees	10	51,871,424	65,107,807
Travelling & Transportation	11	6,457,991	6,196,981
Premises Related Expenses	12	7,751,163	7,868,300
Public Utilities	13	1,870,153	2,044,055
Goods and Services	14	4,178,788	5,697,688
Depreciation		2,400,407	2,646,331
Grant Expenditure	15	-	879,759
Bank Charges	16	90,065	84,067
Total Operating Expenses		<u>74,619,991</u>	<u>90,524,987</u>
Net Loss from Operations		(8,164,440)	(23,551,587)
Other Income		148,827	301,936
Interest Income -CD & Bank		368,828	944,026
Transfer from GOJ/USAID Grant		2,400,407	2,646,331
		<u>2,918,062</u>	<u>3,892,292</u>
Deficit for the year		<u>(5,246,378)</u>	<u>(19,659,295)</u>

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Fair Trading Commission
Statement of Changes in Equity
for the year ended March 31, 2011

	GOJ Capital Fund	General Reserve	Total
	\$	\$	\$
Balance as at March 31, 2009	5,860,120	9,188,373	15,048,493
Movement in the year	60,950	(19,659,295)	(19,598,345)
Transfer to Income	(2,646,331)	-	(2,646,331)
Adjustment	(538,910)	-	(538,910)
Balance as at March 31, 2010	<u>2,735,829</u>	<u>(10,470,922)</u>	<u>(7,735,093)</u>
Movement in the year	-	(5,246,378)	(5,246,378)
Transfer to Income	(2,400,407)	-	(2,400,407)
Balance as at March 31, 2011	<u>335,422</u>	<u>(15,717,300)</u>	<u>(15,381,878)</u>



Fair Trading Commission
Statement of Cash Flows
for the year ended March 31, 2011

	2011	2010
	\$	\$
Cash flows from operating activities		
Deficit for the year	(5,246,378)	(19,659,295)
Adjustments:		
Depreciation	2,400,407	2,646,331
Decrease/Increase in Current Assets	7,545	(400,073)
Increase in Current Liabilities	4,148,250	20,242,007
Transfer from Capital Fund	(2,400,407)	(2,646,331)
Net cash (used in)/provided by operating activities	(1,090,583)	182,639
Cash flows from investing activities		
Investments	935,355	989,832
Capital expenditure	(204,481)	(2,448,538)
Net cash provided by/(used in) investing activities	730,874	(1,458,706)
Decrease in cash and cash equivalents	(359,709)	(1,276,066)
Cash and cash equivalents at beginning of year	3,269,092	4,545,158
Cash and cash equivalents at end of year	2,909,383	3,269,092

Fair Trading Commission

Notes to the Financial Statement

For the year ended March 31, 2011

1 . IDENTIFICATION

The Fair Trading Commission (FTC) was established to enforce the regulations of the Fair Competition Act enacted 9th March 1993 and became effective 9th September, 1993. 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 of providing consumers with competitive prices and choices.

2. REPORTING CURRENCY

These financial statements are expressed in Jamaica Dollars.

3. SIGNIFICANT ACCOUNTING POLICIES

The principal accounting policies applied in the preparation of these financial statements are set out below. The policies have been consistently applied for the year presented.

(a) Statement of Compliance

These financial statements have been prepared in accordance with Generally Accepted Accounting Principles (GAAP) which is based on International Public Sector Accounting Standards (IPSAS) and International Financial Reporting Standards (IFRS) issued by the International Public Sector Accounting Board (IPSASB) and International Accounting Standards Board (IASB) respectively, interpretations issued by International Financial Reporting Standards Interpretation Committee of the IASB and recommendations by the Institute of Chartered Accountants of Jamaica. These Statements have been prepared under the historical cost convention.

(b) Depreciation of Property, Plant & Equipment

Property, Plant and Equipment are stated at historical cost less accumulated depreciation. Depreciation is calculated on the straight-line basis at annual rates estimated to write off the carrying value of the assets over the period of their estimated useful lives. Annual rates are as follows:

Motor Vehicle	25%
Furniture & Fixtures	10%
Computer Equipment	25%

Property, Plant and Equipment are reviewed periodically for impairment. Where the carrying amount of an asset is greater than estimated recoverable amount, it is written down immediately to its recoverable amount.

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Fair Trading Commission

Notes to the Financial Statement

For the year ended March 31, 2011

3. SIGNIFICANT ACCOUNTING POLICIES (Cont'd)

(c) Cash and Cash Equivalents

Cash and Cash Equivalents are carried in the balance sheet at cost. For the purpose of the cash flow statement, cash and cash equivalents comprise cash at bank and in hand.

(d) Capital Fund

This fund represents capital grants received and is written off on a straight line basis over the life of the asset.

(e) Employee Benefits

A provision is made for the estimated liability for untaken annual vacation leave due as a result of services rendered by employees up to the balance sheet date.

(f) Revenue Recognition

Revenue represents subvention received from the Government of Jamaica and grants received from various multi-national funding agencies.

Interest income is recognized in the income statement for all interest bearing instruments on an accrual basis unless collectability is doubtful.

(g) Taxation

No provision has been made for taxation as the Commission is tax exempt under Section 12(h) of the Income Tax Act of Jamaica.

(h) Grants

The Commission received funding from various agencies for specific projects. The Inter-American Development Bank (IDB) & the FTC entered into an arrangement in March 2005 which provided for US\$439,300 (US\$304,000 from IDB and US\$135,300 from Government of Jamaica) over a period of 3 years for the purpose of strengthening the Technical Capacity of the FTC. Jamaica Promotion Corporation (JAMPRO) provided JM\$7,273,825.33 in May 2007 through the Private Sector Development Programme for the purpose of Capacity Building.

4. PENSION SCHEME

The Commission operates a contributory pension scheme for its employees, with benefits based on the employees' earnings during recognized service. The Fund balance as at March 31, 2011 was \$60,587,396.

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Fair Trading Commission

Notes to the Financial Statement

For the year ended March 31, 2011

5. FINANCIAL AND CAPITAL RISK MANAGEMENT

(a) Financial risk factor-

The Commission's activities expose it to a variety of financial risks: market risks (including currency risk and price risk); credit risk, liquidity risk, interest rate risk and operational risk. The Commission's overall risk management policies are established to identify and analyze the risk of exposure and to set appropriate risk limits and controls to monitor risk and adherence to limits. The risk management framework is based on guidelines set by the Board of Directors together with management and seeks to minimize potential adverse effects on the Commission's financial performance.

(i) Price Risk

Price risk is the risk that the value of the financial instrument will fluctuate as a result of changes in market prices. The Commission mitigates against this risk assigning markup of 10% for inflation in the budget. However, when there is a reduction in the budget the Commission institutes measures to deal with the shortfall.

(ii) Currency Risk

Currency risk is the risk that the value of a financial instrument will fluctuate because of changes in foreign exchange rates. The Commission manages its foreign exchange risk by holding foreign currency bank accounts in reputable financial institutions.

(iii) Interest Rate Risk


Interest rate risk is that the value of a financial instrument will fluctuate due to changes in market interest rates. The Commission has no significant interest bearing assets or liabilities, income and operating cash flows are substantially independent of changes in market interest rates. The Commission's interest rate risk arises from deposits.

(iv) Credit Risk

Credit risk is the risk that one party to a financial instrument will fail to discharge an obligation and cause the other party to incur a financial loss. The Commission has limited concentrations of credit risk. This risk is managed through adherence to staff loans and advances policy as well as maintaining good relationship with suppliers.

(v) Liquidity Risk

Liquidity risk is the risk that an organization will encounter difficulty in raising funds to meet its commitments associated with financial instruments. The Commission manages this risk by keeping committed credit lines available.



Fair Trading Commission

Notes to the Financial Statement

For the year ended March 31, 2011

5. FINANCIAL AND CAPITAL RISK MANAGEMENT (Cont'd)**(vi) Capital Risk**

Capital risk is the risk that the Commission fails to comply with mandated regulatory requirements resulting in breach of those requirements. The Commission's objectives when managing capital are to comply with capital requirements, safeguard the Commission's ability to continue as a going concern and maintain a strong capital base to support the development of its business.

(vii) Operational Risk

Operational risk is the risk of direct or indirect loss arising from a variety of causes associated with the Commission's processes, personnel, technology and other external factors, other than financial risks. The Authority manages operational risk to avoid financial loss and damage to its reputation by adhering to good corporate governance practices.

6. Fixed Assets Comprise

	USAID furniture, Fixtures & Equipment	GOJ Motor Vehicles	GOJ Office Furniture	GOJ Fixtures & Fittings	GOJ Computers	Total
	\$	\$	\$	\$	\$	\$
At Cost or Valuation April 1, 2010	876,678	1,640,861	1,133,471	3,184,293	11,139,160	17,974,464
Additions	-	-		204,481		204,481
Closing Balance	876,678	1,640,861	1,133,471	3,388,774	11,139,160	18,178,945
Depreciation						
April 1, 2010	876,678	1,640,861	808,249	1,266,040	7,659,360	12,251,189
Charge for year	-	-	32,409	243,885	2,124,114	2,400,407
Closing Balance	876,678	1,640,861	840,658	1,509,925	9,83,474	14,651,596
Net Book Value						
March 31, 2011	-	-	292,813	1,878,849	1,355,686	3,527,349
March 31, 2010	-	-	325,222	1,918,253	3,479,800	5,723,276

Fair Trading Commission

Notes to the Financial Statement

For the year ended March 31, 2011

	2011	2010
7. Receivables	\$	\$
Innovative Corporate Solution	23,898	23,898
GCT Refund	303,064	326,936
Overpayment	80,670	80,670
Salary Advance/Salary overpayment	26,000	36,198
Interest receivables	4,993	13,886
Airfare	-	113,014
Other receivables	2,000	2,000
Withholding Tax	<u>412,543</u>	<u>300,936</u>
	<u>853,168</u>	<u>897,538</u>
	2011	2010
8. Cash and Cash Equivalent	\$	\$
RBTT Bank-IDRC US\$ A/C	3,865	39,983
RBTT Bank-IDB US\$ A/C	380,772	685,173
RBTT Bank-Current A/C	2,518,746	2,537,936
Petty Cash	<u>6,000</u>	<u>6,000</u>
	<u>2,909,383</u>	<u>3,269,092</u>



Fair Trading Commission

Notes to the Financial Statement

For the year ended March 31, 2011

9. Accruals	2011	2010
	\$	\$
Accounts Payable	960,495	
Statutory Ded., Int & Penalty	14,492,174	15,493,369
Electricity	207,009	206,408
Rental of Office Space	1,277,082	714,862
Vacation Leave Pay	3,103,209	2,890,107
Outstanding Salary 09/10	7,023,918	3,582,812
Other Payables	416,389	444,468
	<u>27,480,276</u>	<u>23,332,027</u>

10. Compensation of Employees	2011	2010
	\$	\$
Salaries	43,426,878	47,302,387
Salaries (Temp) & Wages	862,729	1,766,931
O/S Stat. Ded., Int. & penalty	-	9,329,684
Accrued Vacation Leave	3,142,881	2,890,107
Clothing & Robing Allowance	44,460	44,460
Meal Allowances	323,173	424,228
Overtime Allowances	229,578	384,089
Staff Welfare	177,418	130,307
Health Plan	2,040,006	1,639,948
Pension Plan Contribution	1,624,301	1,195,666
	<u>51,871,424</u>	<u>65,107,807</u>

Fair Trading Commission

Notes to the Financial Statement

For the year ended March 31, 2011

11. Travelling and Transportation	2011	2010
	\$	\$
Motor Vehicle Allowances	5,922,584	5,695,266
Fare	1,200	4,400
Petrol & Oil	114,253	253,600
Repair & Maintenance-Motor Vehicles	161,381	176,248
Air Fare	86,203	3,466
Subsistence (Foreign)	172,370	64,001
	<u>6,457,991</u>	<u>6,196,981</u>

12. Premises Related Expenditure	2011	2010
	\$	\$
Rental of Building	7,672,538	7,786,050
Other Rental	78,625	82,250
	<u>7,751,163</u>	<u>7,868,300</u>

13. Utilities	2011	2010
	\$	\$
Electricity	1,156,293	1,055,786
Telephone & Fax	713,860	988,269
	<u>1,870,153</u>	<u>2,044,055</u>

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Fair Trading Commission

Notes to the Financial Statement

For the year ended March 31, 2011

14. Goods and Services	2011	2010
	\$	\$
<i>Professional Services</i>		
Advertising & Public Relation	602,618	1,608,175
Consultancy	808,148	776,371
Consulting (Legal Fees)	-	34,500
Stipend (Commissioners)	1,550,383	1,572,158
 <i>Office and General Expenses</i>		
Drugs & First Aid	1,756	8,403
Text & Reference Books	-	8,110
Food & Drink	151,303	182,149
Printing and Stationery	431,700	541,740
Postal & Cable	55,597	74,447
Subscriptions	69,718	81,389
Repairs & Maintenance	71,681	503,470
Official Entertainment	-	3,679
Insurance	184,936	126,110
Sundry expenses	11,316	2,444
 <i>Miscellaneous Expenses</i>		
Sanitation, Security Serv. Donation etc.	239,632	174,543
	<u>4,178,788</u>	<u>5,697,688</u>

15. Project Expenditure	2011	2010
	\$	\$
IDB Project GOV. Contribution	-	4,896
IDB Component (1)	-	191,491
IDB Component (2)	-	467,372
IDB Component (3)	-	216,000
	<u>879,759</u>	

16. Bank Charges	2011	2010
	\$	\$
RBTT IDB US\$ Account	1,294	17,152
RBTT US\$ Account	61,718	212
RBTT Account	27,053	66,703
	<u>90,065</u>	<u>84,067</u>