

ANNUAL REPORT

Financial Year 2011/2012



FAIR TRADING COMMISSION

Mission Statement

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



FAIR TRADING COMMISSION
52-60 Grenada Crescent
Kingston 5

October 14, 2015

The Honourable Anthony Hylton
Ministry of Industry Investment & Commerce
4 Saint Lucia Avenue
Kingston 5

Dear Minister:

In accordance with Section 14(1) of the Fair Competition Act, I have the honour of transmitting herein the Commission's Report for the Financial Year 2011/2012 and a copy of the Financial Statements of the Commission's Accounts as at March 31, 2012 duly certified by the Auditors.

Yours sincerely,

Christopher Samuda
Chairman

**CURRENT COMMISSIONERS
OF THE
FAIR TRADING COMMISSION**

Christopher Samuda (Chairman)

Michelle Brown

Dena Davis

Densil Williams

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Financial Statements for the year ended March 31, 2012

Commissioners & Senior Management

Commissioners and Senior Managers during Financial Year 2011/2012

COMMISSIONERS

DERRICK MCKOY
Chairman

JASPER BURNETT, C.D.

DOROTHY CARTER-BRADFORD

ROBERT COLLIE

EMILE LEIBA

SENIOR MANAGERS

Mr. David Miller, Executive Director

Dr. Delroy Beckford, Senior Legal Counsel

Ms. Ann-Marie Grant, General Manager

Dr. Kevin Harriott, Competition Bureau Chief

Executive Director's Overview

The past year was marked by a number of significant investigations and studies, all of which demonstrated our commitment and technical capacity to influence change in the respective markets. Work included an extensive analysis of the market for reinforcing steel bars, a market in which the market leader supplies approximately 65% of the market; an analysis of the acquisition by Digicel of Claro in the telecommunications market, a move which is likely to have significant effects in the years to come; as well as an investigation into the fertilizer market.

The Digicel/Claro 'merger' was conducted in accordance with the established best practices, principles and timelines that govern merger control analysis in jurisdictions across the world. The Staff's report was the subject of much discussion with Honourable Prime Ministers Golding and then Holness as well as with several Government Ministries and Agencies including the Office of the Prime Minister, the Attorney General's Chambers, the Office of Utilities Regulation and the Spectrum Management Authority.

We concluded that the acquisition agreement would likely cause irremediable and irreparable damage to competition in the voice and text messaging services market in Jamaica; and several recommendations were proposed as a means of chilling the effects of the acquisition. Notwithstanding, the acquisition agreement was approved pursuant to the Telecommunications Act.

Late in the year we filed a claim in the Supreme Court against Digicel and Claro that their agreement will have as its effect, the substantial lessening of competition in the market for voice and text messaging services. The nature of this matter suggests that it is going to be a long legal process, a process which the Staff is prepared to undertake and follow through to the end.

Our research and analyses also included an assessment of the effect of the Common External Tarrif (CET) on the cost of fuel being purchased by Jamaica and a study on variations in petroleum prices in the Jamaican market over the year. It is expected that the latter study will serve as a reference that can be used to predict future behavior of players in that market. Other reports were also produced on aspects of the tourism, education and subscriber television services sectors.

Competition advocacy is always one of our high priority items on our work programme; and during the year we examined and commented on several aspects of the telecommunications sector, the use of spectrum, the provision of electricity, Micro Small & Medium Size Enterprises (MSME) enterprises and their ability to grow within, as well as the participation of Micro and Small Enterprises (MSEs) in Public Procurement Tenders.

Of importance to the present and future functioning of the telecommunications sector were our recommendations for amendments to the Fair Competition Act and the Telecommunications Act that would address several of the legislative challenges that were highlighted while dealing with the aforementioned acquisition agreement. We expect that those amendments will take priority on the legislative agenda as these recommendations would place the FTC and other regulatory agencies in a better position were there to be a similar transaction, not only with respect to the telecommunications sector, but to other sectors as well.



Executive Director

May 18, 2012

Role and Function

The Fair Trading Commission (FTC) was established in 1993 as the body responsible for the administration of the Fair Competition Act (FCA). The FCA 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 as set out in section 5 of the FCA are:

- 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 2011-2012

In line with its mandate as set out in section 5 of the FCA, for the Financial Year 2011-2012, the FTC set the following four broad programmes as its main priorities:

1. **Investigation:** Focus on matters that raise significant competition concerns in markets that affect a large group of consumers.
2. **Advocacy:** Assess legislation and government policies to determine their effect on competition within particular sectors.
3. **Information dissemination:** Provide information to all relevant stakeholders on matters of competitive significance.
 - Issue advisories, opinions, guidelines and publications.
 - Organize seminars, workshops and meetings specifically with manufacturers and distributors on how to identify the various offences against competition.
 - 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.
 - Provide guidance to local institutions, CARICOM Secretariat and the CSME Unit on issues relating to competition law and policy within the region.
4. **Strengthen technical capacity:** Improve the technical and administrative capacity of the Staff of the FTC.

Performance relating to each Programme

1.0 Investigation

Complaints Handled

Over the period April 1, 2011 to March 31, 2012, the FTC investigated a total of 348 cases. This comprises 112 cases that were unresolved at the end of the previous Financial Year, 2010-2011; and 236 cases which were received during the Financial Year under review. For the review period, 224 cases were resolved and closed - a resolution rate of 64%. Matters relating to the telecommunications sector represented the largest category of complaints received, amounting to 34% of the matters dealt.

Of the 348 cases investigated during the year under review, 249 (72%) were classified as matters concerning 'misleading advertising' (MA); 40 (11%) were classified as offences against competition; and eight (2%) as requests for opinion. Fifty-one (15%) complaints were considered as being outside the purview of the FCA; and were therefore transferred to relevant agencies, where appropriate.

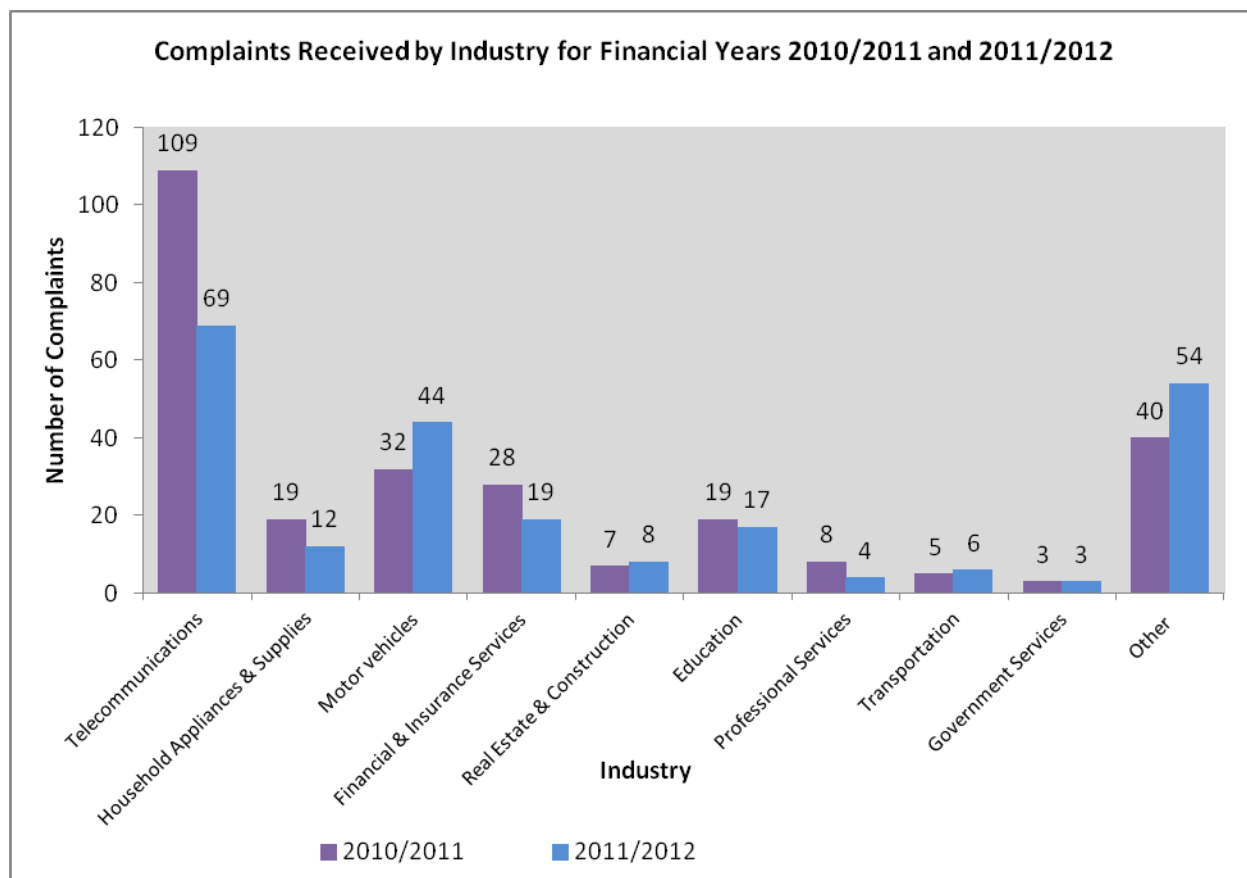
Table 1: Cases Investigated during 2011-2012 Financial Year

	Total	Telecoms	Motor vehicle	Financial Services & Insurance	Household Appliances & Supplies	Other
Unresolved at March 31, 2011	112	51	5	9	6	41
Received	236	69	44	19	12	92
Total Cases investigated	348	120	49	28	18	133
Closed	224	71	24	18	16	95
Unresolved at March 31, 2012	124	49	25	10	2	38

Table 2: Complaints Received (by Category) during the 2011-2012 & 2010-2011 Financial Years

INDUSTRY CATEGORY	COMPLAINTS RECEIVED			
	2011-2012		2010-2011	
	Number	Percentage of Total	Number	Percentage of Total
Telecommunications	69	29	109	40
Household appliances & supplies	12	5	19	7
Motor Vehicles	44	19	32	12
Financial & insurance services	19	8	28	10
Real estate & construction	8	3	7	3
Education	17	7	19	7
Professional services	4	2	8	3
Transportation	6	3	5	2
Government services	3	1	3	1
Other	54	23	34	15
TOTAL	236	100	270	100

Figure 1: Complaints Received (by Category) during the 2011-2012 & 2010-2011 Financial Years



Selected Investigations

The following highlights some of the competition protection related cases investigated during the review period.

- **Steel Industry**

1. In response to the allegation that Tank Weld Metals Limited (TWM) had been selling reinforcing steel bars (rebars) at a price which was 36% below the price on the world market, thereby engaging in predatory pricing, the FTC investigated the complaint and concluded that TWM's conduct was not abusive and that its pricing practice was unlikely to result in it being able to raise its prices significantly in the event its competitors existed the market due to TWM's pricing.

The Staff found that although TWM was pricing below the prices at which it had purchased rebars, those prices were in fact on par with world market prices (replacement cost); and found further that in this instance, the replacement cost pricing method, consumers benefited by approximately US\$42.2 million over the 10 month

period September 2008 to June 2009. The FTC concluded also that TWM's ability to raise prices above competitive levels is mitigated by the fact that it would be fairly easy for its competitors that may have exited the market to re-enter, thereby placing a competitive constraint on TWM.

- Air Transportation

2. Pursuant to a complaint by REDJet, the FTC started an assessment of competition issues relating to REDJet's application for operating routes into and out of Jamaica, REDJet had lodged a complaint with the FTC alleging that, with respect to its application for route rights, the Jamaica Civil Aviation Authority had been protracting the processing of the application, thereby frustrating its attempts to offer low cost commercial regional flights to and from Jamaica.

Subsequent to the staff commencing investigation into the matter, regulatory approval was given for the REDJet to operate commercial flights to and from Jamaica. The investigation was therefore discontinued.

- Telecommunications

- ***Competitive effect of Digicel Claro acquisition***

3. On December 9, 2011, the FTC filed a claim in the Supreme Court against Digicel Jamaica Limited (Digicel) and Oceanic Digital Jamaica Limited (Claro) that their agreement which would see Digicel taking control of Claro's operations in Jamaica, will have as its effect, the substantial lessening of competition in the market for voice and text messaging services. The FTC had therefore sought a declaration from the Court that the agreement is in breach of Section 17 of the Fair Competition Act (FCA), which if granted, would deem the agreement to be unenforceable.

In the claim, the FTC stated that the agreement effectively eliminates a significant competitive constraint as well as delays or deters cost effective entry or expansion in the market. This follows on the FTC's conclusion, that since Claro's entry in the market in August 2007 it had been exerting competitive pressure on Digicel. This was evident by the fact that Digicel steadily increased its promotional and value offerings to its subscribers, subsequent to Claro's entry. The increase competitive environment caused Digicel to offer its subscribers more talk-time for less money resulting in estimated consumer benefits of approximately \$16 billion between 2007 and 2011. Specifically, Digicel's subscribers increased their talk-time by 39%, while their corresponding expenditure declined by 2%; given that Digicel reduced its average price approximately 50%.

The agreement was deemed likely to cause an irremediable and irreparable damage to competition in the voice and text messaging services market in Jamaica, resulting in, among other things, higher prices and/or reduced promotions; fewer choices of

products; lower product quality or customer service quality; and slower rates of technological innovation or adoption.

The decision to file suit followed a series of meetings that were chaired by the Honourable Prime Minister Bruce Golding, which included representatives of other agencies such as the Attorney General's Department, the Office of Utilities Regulation, the Spectrum Management Authority and the Telecommunications division of the Office of the Prime Minister. The acquisition of Claro by Digicel was the subject of the meetings as well as the FTC's assessment of the competitive effect of the transaction.

The FTC had recommended that the acquisition should not be approved given the competition implications. Further, that should Claro exit the market independent of the transaction, then its license, spectrum and customers, would be returned to the market and allow existing players and new entrants the opportunity to compete for them. But, in the event that the transaction was approved steps should be taken to, as best as possible, protect the competitive environment and by extension, consumers. The steps recommended were (a) mandatory sharing of cell towers; (b) reciprocal interconnection rates among all players; (c) Claro's customers should be released from any contractual obligations to Claro, thereby allowing them to choose their preferred provider; and (d) mechanisms should be implemented to ensure that technological advancements are introduced into the market within a reasonable time frame.

FTC's jurisdiction challenged by Digicel

4. In response to the suit that was filed by the FTC against Digicel, Digicel filed a claim against the FTC, as to whether the Fair Competition Act (FCA) should apply to the transactions effected by the agreement between Digicel and Claro, and whether the FTC has jurisdiction in relation to the agreement. This matter was heard in Chambers on January 31, 2012; and the Court ordered that there be a separate trial to hear the issues. Subsequently separate submissions were made.

FTC's operation challenged by LIME

5. In October 2011, Cable and Wireless Jamaica Limited's (LIME) filed an Application in the Court of Appeal to compel the FTC to: (1) seek an injunction against Digicel and Claro under section 47 of the FCA on the basis of breaches of sections 17 and 35 of the FCA; (2) issue directions under section 21 of the FCA to prevent the abuse of dominance given effect by the transaction between Digicel and Claro; and (3) issue directions under section 21 of the FCA to halt the steps already taken by Digicel and Claro to combine their operations pending final judgment in the current action should leave be granted.

The FTC resisted the application by submitting that the Courts cannot compel it to conduct an investigation, having regard to both the general complexity of competition law issues and the discretion that the Commission has under the FCA. The Court agreed

with these submissions, and also found that the FTC had in fact complied with its duty to investigate the transaction.

Accordingly, the Supreme Court dismissed LIME's application for judicial review and awarded costs of \$1,639,758.83 to the FTC.

Directory Enquiry

6. The FTC completed its examination into whether LIME's pricing of its Directory Enquiry (DQ) services was hindering competition in the market in which DQ services are provided; and concluded that LIME's conduct was unlikely to lessen competition substantially.

Free access to Facebook

7. The FTC commenced investigation into Digicel's "Facebook Zero" promotion following complaints that subscribers were being charged for a service which Digicel had advertised as free. The promotion supposedly allows for Digicel subscribers to access Facebook free of charge from their mobile phones, provided that they stayed within certain parameters.

The complaints raise issues that could constitute the offence of *Misleading Advertising* in breach of section 37 of the Fair Competition Act. Having conducted tests, the FTC decided that the allegations were not unfounded; and the matter should be pursued. Digicel entered into discussions with the FTC towards settling the matter.

▪ Fertilizer industry

8. The FTC completed an investigation into Newport-Fersan (Jamaica) Limited's (NFJL) pricing of fertilizer; and concluded that there is no evidence to support the claim that NFJL has abused its dominance within the remit of the Fair Competition Act.

The Complainant alleged that NFJL engaged in anticompetitive conduct by entering the market in 2006 with unfairly low prices, and then sharply increased its prices with the subsequent exit of its only competing supplier, Antilles Chemical Company. A crucial finding of the investigation was that since NFJL's entry into the market, its prices consistently remained above appropriate measures of its costs; notwithstanding the fact that the prices increased sharply following the exit of Antilles Chemical Co. This finding is inconsistent with the claim that the exit of Antilles Chemical Company was precipitated by any anticompetitive conduct on the part of NFJL.

Consent Agreement

1. Following an investigation under section 37 of the Fair Competition Act into the failure of Caribbean Development Institute, to issue certificates as promised, the FTC

concluded that there is likely to be a breach of the FCA. A Consent Agreement was agreed upon with the Caribbean Development Institute who agreed to settle the matter and to pay \$100,000 for the FTC's costs, \$25,000 for a refund of the Informant's tuition; as well as publish an apology in a daily newspaper.

Caribbean Development Institute fulfilled all its obligations under the Consent Agreement.

2. The FTC entered into a Consent Agreement with Jamaica AutoClub (JAC), a member of the EMCD Group Limited, after being satisfied that representations made by JAC with respect to discounts on motor vehicle insurance premiums were deemed false.

In its brochure, Jamaica AutoClub stated that its members would have received an additional 10% discount on insurance premiums from participating insurance companies. However, prompted by a complaint, the FTC's investigation revealed that at least one of the listed participating insurance companies granted only a 5% discount, contrary to the representations made by JAC. The FTC's costs of \$64,520 were paid and the JAC issued a public apology in the November 16 & 23, 2011 issues of the Daily Gleaner.

Market Studies

- Fuel

1. The FTC completed an assessment of the effect of the Common External Tarrif (CET) on the cost of fuel being purchased by Jamaica. It was found that (a) should there be a removal of the CET on Automotive Diesel Oil (ADO) and Heavy Fuel Oil (HFO), Petrojam's ex-refinery price would be reduced by 8.3% from US\$85.21 per barrel to US\$78.11 per barrel and by 4.4% from US\$75.83 per barrel to US\$72.53 per barrel, respectively; (b) should ADO and HFO be sourced from outside the region at world market prices, Jamaica's ex-refinery cost at a 0% CET would be US\$83.48 (2.02% less than Petrojam) and US\$72.73 (4.08% less than Petrojam) per barrel respectively; and (c) based on the recomputed ex-refinery Petrojam price, the CET overburden on Electricity cost to Jamaicans for 2009 was approximately US\$37.3M.
2. The FTC concluded its study on variations in petroleum prices in the Jamaican market over the year 2011. The study sought to identify some of the crucial factors causing the observed variation in the retail price of petroleum products across dealer locations; and focused on two structural characteristics of retail petroleum markets: (i) the number of competing dealers; and (ii) the extent of controlling influence of marketing companies over dealers.

The main conclusions were (a) that changes in the price of crude oil on the world market are not transmitted immediately by Petrojam, and this has generated a net benefit to

consumers; (b) up to a point, gasoline is typically cheaper in areas where more dealers are located; and (c) gasoline is typically cheaper at dealer locations where marketing companies do not exert a controlling influence over pump prices.

It was observed that motorists extract greater surplus in geographic markets where more dealers are located; and the study suggests that motorists may not be extracting all the benefits of competition. In some zones, difference in gasoline prices is as high as \$7.80 per litre, while in other zones there were no differences in prices.

Due to the huge volume in which gasoline is consumed, even small savings in pump price could amount to a significant reduction in expenditure annually. For instance, the FTC conservatively estimated that there are 508,690 motor vehicles in Jamaica. On the assumption that motorists purchase approximately 50 litres of gasoline per week, savings of as low as \$2.17 per litre on the pump price would amount to an aggregate saving of approximately \$2.2 billion for motorists during the 39 week period January through September 2011.

2.0 Advocacy

Competition advocacy: informing government policy

The FTC's advocacy efforts took various forms with several policy makers and Government Departments, with most of the advocacy engagements surrounding Digicel's acquisition of Claro.

The following are some of the FTC's advocacy work for the Financial Year 2011-2012, presented by industry category:

Telecommunications

Submitted to the Office of the Prime Minister report on the evaluation of the likely competitive effect of the proposed acquisition of Claro by Digicel. The report covers (a) an assessment of the extent to which Digicel, following consummation of the agreement, is likely to face competitive restraints from consumers, current suppliers and potential entrants in the relevant market(s); (b) an assessment of the extent to which the proposed agreement is likely to result in a substantial lessening of competition in the telecommunication sector; (c) an assessment of the procompetitive benefits which could flow from the agreement that is unlikely to have occurred without the agreement; and (d) an assessment of the extent to which consumers are likely to be harmed by the agreement.

The report also included recommendations for addressing the competition concerns identified. The public version of the report was also submitted to the Permanent Secretary of the MIIC.

Upon the Honourable Prime Minister's request, a team comprising representatives of the Office of the Prime Minister, Spectrum Management Authority, Office of Utilities Regulation, Attorney General's Chambers and FTC prepared and submitted a document, outlining the issues relevant to the assessment of the application for the transfer of Claro's operation and license to Digicel, with suggestions on how the matter should be handled.

Spectrum

On Nov 4th attending a meeting with HPM Holness at which the SMA and the AG were also present. The purpose of the meeting was to discuss the allocation of Claro's spectrum to Digicel pursuant to HPM Golding's approval of the transfer of Claro's telecomms license to Digicel. HPM Holness raised the issue as to why the FTC, as an independent body who had formed a view on the competition issues, had not sought a declaration in Court, that the agreement is in breach of the FCA. We indicated that it was suggested by the MIIC that the AG be asked for an opinion. The AG indicated that

he had given his opinion on the issues and had advised the MIIC several weeks ago. HPM Holness instructed us to proceed with seeking the declaration as, as previously advised by the AG, HPM Golding's decision to approve the transfer of the license, was independent of the provisions of the FCA.

It is noted that HM Vaz and PS Miller of the OPM indicated that, in keeping with HM Golding's instructions, the FTC should have pursued this course of action already. The FTC has therefore begun preparing the requisite documents for having the Court decide on whether the agreement between Digicel and Claro is in breach of Section 17 of the FCA.

Electricity

Pursuant to a discussion with the Honourable Prime Minister Bruce Golding, senior staff met with the Consumer Affairs Commission (CAC) to discuss a collaboration effort aimed at addressing consumer complaints regarding the practices of Jamaica Public Service Company (JPS). It was agreed that the CAC would create a system to receive complaints and categorize them, following which they would be passed to the FTC to be examined for any competition issues.

Micro and Small Enterprises sector

- Submitted to the MIIC, report entitled “An Examination into the Impediments to the Participation of Micro and Small Enterprises (MSEs) in Public Procurement Tenders in Jamaica”, which (a) focuses on the extent to which MSEs are accessing public procurement contracts; (b) assesses whether MDAs are meeting the 15% minimum requirement and if not, why not?; and (C) proposes measures to increase the participation of MSEs in public procurement tenders. The recommendations are:
 - (a) Policymakers should take steps to obtain an accurate measure of the size of the MSE sector and also the level of participation of those enterprises in public procurement tenders.
 - (b) The MIIC should require MDAs to report on their procurement activities on a quarterly basis. The data reported should be sufficiently disaggregated to distinguish MSEs from other enterprises.
 - (c) MDAs need to identify the deficiencies in the tenders submitted by MSEs. The deficiencies should be reported to the MIIC and to non-winners why their bids were unsuccessful or disqualified.
 - (d) MDAs need to provide to prospective bidders, a checklist of all the requirements for their bid to be eligible for consideration. Further, tender documents should be as clear as possible for ease of understanding.

- (e) Another factor inhibiting greater participation on the part of MSEs is the bureaucratic complexities of the public procurement process; and therefore MDAs should as much as possible simplify the process.
 - (f) Policymakers should establish a mechanism to ease the financial burdens associated with submitting bids as well as remove unnecessary requirements pursuant to submitting bids.
 - (g) The information provided by MDAs should be housed at a central database for public scrutiny; and be used to design training agenda for workshops specifically geared at addressing the needs identified.
 - (h) The GOJ ought to identify a location at which information on all procurement opportunities, avenues through which funding may be accessed and other relevant information are housed and made available to prospective participants. The location should provide staff that is able to assist with the completion of relevant forms, and directing prospective bidders to the appropriate office at which required supporting documentation may be obtained.
- Submitted to the MIIC, comments on its draft MSME Policy. In summary, the FTC's comments are: (a) The vision statement is too broad in scope in the sense that it captures mutually inconsistent goals which is likely to frustrate attempts to realizing the vision; (b) The economic contribution of the MSME sector relative to larger enterprises has not been quantified; (c) Policymakers should clarify its system for classifying the size of enterprises as relying on absolute measures of size to classify enterprises is likely to pose considerable problems when used across a variety of industries.

Recommendations are: (a) Policymakers consider revising its vision statement to encompass a set of mutually consistent goals. We recommend that the vision be limited to economic goals. In the absence of such a revision, policymakers should ensure that the economic goals take precedence over the social goals. (b) The policy framework document should disclose studies which support the view that small businesses make a demonstrably greater economic contribution than big businesses do. The scope of the policy framework should then be limited to only those markets in which this result is reasonably likely to be tenable. (c) If Policymakers do not identify markets in which small businesses make a demonstrably greater economic contribution than other enterprises do, the scope of the policy framework should be limited to only those markets in which big businesses do not participate. (d) Policymakers should consider using market share, based on total sales and/or total number of employees, to classify the size of an enterprise in a given procurement market.

Tourism

The FTC presented the results of its study on the tourism sector at the Bank of Jamaica (BOJ) Research Conference held in September 2011. The goal of the study was to inform the design of policies geared toward increasing Jamaica's share of the revenues generated by the global tourism industry. The objective was twofold: to (i) identify the main drivers of competitiveness in travel and tourism (T&T) product; and (ii) quantify the relative effect of each driver. The study examined data which compare the competitiveness of the T&T products across 130 countries; in the sense of their attractiveness to potential providers and consumers of tourism services.

The key findings are: (a) increasing the number of international fairs and exhibitions hosted by Jamaica is the most effective driver of competitiveness and it is more than seven times as effective as marketing campaigns; (b) lowering the cost of starting a business in the tourism industry is unlikely to improve the competitiveness of Jamaica's tourism product; (c) relying on a more intense marketing campaign is unlikely to be the most effective response to avert the anticipated adverse effects from the UK's air passenger duty; and (d) offering tax incentives and grant concession schemes to business interests are unlikely to improve the competitiveness of Jamaica's tourism product.

Education

The FTC completed a study of the market for independent educational institutions. There was reason to believe that a key structural feature of the post-secondary education market may be unduly impeding competition; thereby depriving Jamaica of the potential benefits of this market. The purpose of the study was to stimulate competition in this market by proposing measures to mitigate the adverse effects of impediments to competition.

The study revealed that traditional institutions which have supplied educational services no longer have the capacity to satisfy the burgeoning demand for tertiary education. There is a distinct danger that Jamaica is not realizing the potential benefits of this expanding market due to uncertainty regarding the quality of institutions which have only recently entered. Students may limit their exposure to, if not avoid, misleading representation on the part of educational institutions by seeking admission to only reputable institutions. An institution may have established a good reputation through either having an extensive history of providing high quality services or by virtue of successfully completing the formal processes of registration and accreditation. Our recommendations are: (a) The Ministry of Education should engage in a public education campaign aimed at repeatedly sensitizing prospective students of tertiary level institutions to the purpose of registration and accreditation; and (b) All institutions

offering post-secondary level education should be required to disclose their accreditation status in any representation made to the public.

Subscriber television industry

The FTC provided its opinion to the Broadcasting Commission on the competitive effects that are likely to result from hoarding by virtue of Flow's failure to relinquish pole attachment permits issued to cable operators that it has acquired. The conclusions are (i) subscribers are likely to be harmed by the hoarding by virtue of reduced choices and higher prices; (ii) prospective entrants are likely to be harmed since the hoarding of pole attachment permits creates an artificial barrier to entry for traditional operators thereby restricting opportunities for traditional operators.

The Broadcasting Commission had accepted the FTC's recommendation that regulations be put in place to compel Flow to relinquish all pole attachment permits; and advised that there is now a condition for any approval of change of ownership that Flow must surrender pole attachment agreements within 6 months of the change in ownership.

3.0 Information Dissemination

Public Lecture

The twelfth lecture in the Annual Shirley Playfair Lecture Series was held on Tuesday, September 13, 2011 at the Jamaica Pegasus Hotel under the **“Coordinating to Compete: Limitations of the Motor Vehicle Insurance Market”**. The main speaker Mr. Harold Wong, Senior Manager – Underwriting of Advantage General Insurance Company was joined on a panel by Mr. Leon Anderson, Deputy Executive Director of the Financial Services Commission (FSC) and Mr. Cedric Stephens, Insurance Consultant, both of whom made presentations. Ms. Wendy Duncan, Legal Officer at the FTC, presented on several key highlights and issues that are raised in the Staff’s study on the motor vehicle insurance market. The three panelists responded to questions from the floor in a discussion segment that was moderated by Mr. Emile Leiba, a Commissioner of the FTC.

The programme started at 3:20 pm with welcome and opening remarks from Mr. David Miller, Executive Director of the FTC; followed by Mr. Reginald Budhan, Permanent Secretary in the Ministry of Industry Investment & Commerce, who offered remarks.

Mr. Wong’s presentation highlighted the financial plight of the industry noting that for the five years from 2006 to 2010 the insurance companies have recorded underwriting losses; and experienced a reduction in losses in 2010 only after the implementation of rate increases in 2009. He noted also that the industry suffered reduced investment income attributable to the Jamaica Debt Exchange (JDX) Programme.

Mr. Wong stated that, “with the substantial decline in investment income and the increasing regulatory pressure for increased capital, the need to drive reserve increases can only be achieved through significantly improved underwriting contributions. Hence rate increases were inevitable. Increases were slow in materializing during 2010 but once the full impact of the JDX was felt, the rate of increase accelerated”.

Whilst Mr. Wong acknowledged the concerns of motorists with respect to high motor vehicle insurance premiums, he noted that premium income (motor) in Jamaica grew by only 5.9% over the years 2008 to 2010; and that the maximum rate increase for Advantage General was 25%. He stated that the Office of Fair Trading (OFT) has issued a ‘call for evidence’ as it looks to establish if any competition or consumer issues need to be addressed in the motor vehicle insurance market in the United Kingdom after receiving reports that motorists have faced average increases in premiums of up to 40% in a year.

Mr. Anderson’s presentation highlighted the role of the FSC with respect to regulating the industry. He emphasized that the FSC does not have the power to stipulate the premiums that insurance companies should charge or risks that they should accept; and

that the FSC's authority is to ensure that the companies are adequately and appropriately capitalised to match their risks. He noted that if the FSC had been given such authority to determine premiums and to determine risk exposures while having its existing power to demand that insurance companies increase their capital requirements, the regulatory framework in Jamaica would be heavy-handed, burdensome and stifle the stability and life of the insurance industry. Mr. Anderson made the point that there would be a conflict of interest as regulating price is not always compatible with the goal of ensuring that the companies are well capitalised and financially sound.

Mr. Stephens highlighted some of the problems that consumers face, such as increased premiums and insufficient and incomplete information provided by insurance companies and brokers. He noted that brokers need to play a greater role in facilitating consumers' needs and helping them to better understand the terms and conditions of their insurance contract.

Following the Lecture, a vibrant, interesting and provocative discussion ensued in which several members of the audience posed questions and directed comments to the presenters.

Several organizations relating to the motor vehicle insurance market were represented. These include Caribbean Assurance Brokers, Allied Insurance Brokers, British Caribbean Insurance Company, Jamaica International Insurance Company Limited, MSC McKay Jamaica Limited (valuators), and Fraser Fontaine & Kong. Other organizations represented were: RBC Bank Jamaica Limited, Broadcasting Commission, Office of Utilities Regulation, Financial Services Commission and Trade Board Limited. It is noted that Chief Justice of Jamaica, the Hon. Zaila McCalla and Mr. Justice Seymour Panton, President of the Court of Appeal, were present. The comments and questions from these representatives were quite instructive; and spurred further interests and discussions.

The presentations are posted on the FTC website – www.jftc.gov.jm

FTC Publications

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

- The FTC issued the 16th edition of its annual magazine *Competition Matters*. The theme *Competition in a Recovering Economy*, broaches a discussion that supports competition as the best option for organizing economic activities in these challenging times being faced by countries such as Jamaica. The articles touch on several industries including tourism, bauxite, sports, distribution of food and

petroleum products, health and agriculture. Authors include representatives of the Ministry of Tourism, the Jamaica Bauxite Institute, JAMPRO and Petrojam, as well as lecturers at the UWI and the Staff of the FTC. The magazine also includes reports on significant activities of the FTC during 2011.

700 copies were distributed to Government Ministries and Agencies, academic institutions, business enterprises and professionals, both local and overseas.

- The FTC issued its first quarterly newsletter for 2012. The January edition of *FTCNewsline* featured significant activities by the FTC over the period October to December 2011. It was distributed by e-mail to over 1,500 persons in Jamaica and the Caribbean region.

Other outreach activities

Presentation

On May 17-18, 2011, the Executive Director participated in the Information Communication and Technology Policy Conference hosted by the Telecommunications Policy and Management Programme, Mona School of Business, University of the West Indies. The FTC's presentation entitled "Application of the Fair Competition Act to a Regulated Telecomms Sector", was made in the session entitled "Telecoms and Competition Policy in Jamaica – Issues and Challenges".

The presentation looked at the special characteristics of the telecommunications sector, the application of competition policy to the sector and described several of the competition issues that are resident in Jamaica's telecommunications landscape. The presentation is available on the FTC website, located at www.iftc.gov.jm.

Media Interviews

- The Executive Director and Senior Legal Counsel were interviewed on the radio talk show *Balancing Justice*; where discussions centred on the performance of the FTC during the Financial Year 2010-2011 as well as several of the competition issues in the telecommunications and banking sectors.
- Senior Legal Counsel participated in a discussion on the radio talk show *Nationwide*, where the topic of misleading advertising in the telecommunications sector was discussed.
- The Executive Director and Senior Legal Counsel were interviewed on television and on several radio talk shows in regard to the FTC's claim in the Supreme Court against Digicel Jamaica Limited (Digicel) and Oceanic Digital Jamaica Limited (Claro). It was explained, that the agreement between the parties will have as its effect, the

substantial lessening of competition in the market for voice and text messaging services, thereby resulting in a reduction in consumer welfare or harm to consumers. The Executive Director also made a presentation to the Kiwanis Club of Kingston on the issue. That presentation is posted on the FTC's website – www.jftc.gov.jm.

To further engage businesses and consumers, the FTC set up its Facebook account: www.Facebook.com/FTC.Jamaica. This is to facilitate the provision of information to the FTC of market practices that are of concern to consumers. It also facilitates the FTC providing information to the general public.

Provide guidance on competition issues to local institutions, CARICOM Secretariat and the CSME Unit

- Further to meeting convened by the MIIC and hosted by the CARICOM Secretariat to discuss a proposed MSME policy for CARICOM, submitted comments on 2 issues, namely: (a) With respect to the Draft Bill, in which section 14 (f) points to the requirement for combinations of small businesses to benefit from efficiencies - this could run afoul of either section 17 or section 19-21 of Jamaica's Fair Competition Act (FCA), which sections speak to agreements that have the effect of lessening competition (eg 'mergers' or collusion) and abuse of dominance. The Bill makes no reference to the FCA or the FTC in these matters. Absent a reference to the FCA or the FTC, jurisdictional issues could arise where that criterion is met for incentives to be granted and a complaint is brought to the FTC for breach of section 17 or 19-21. (b) Regarding the 'application' process for registering as a SME, the legislation should include a requirement to file some sort of performance reports, whether annually or every two years. Presently, there exist challenges in gathering data on the activities, contribution and performance of SME's and this may be one way in which data that could assist policy makers, could be gathered.
- Upon the request of the CARICOM Secretariat, discussed the work that has been done by the Secretariat in advancing competition law and policy within the region through institutions such as the CSME Unit, the CARICOM Competition Commission and the established competition agencies within the region. Several benefits, challenges and deficiencies/weaknesses were identified in the programme that had been undertaken and suggestions for strengthening the programme were noted. It is expected that the Secretariat will be publishing a report on its findings.
- Submitted to the MFAFT comments on the 2012 Work Programme and Budget of the CARICOM Competition Commission; which was used to inform discussions at the March COTED meeting.

In summary, we are of the view that the Work Programme appears comprehensive as it contains several critical initiatives which will serve to strengthen the Commission's administrative capacity and technical capabilities. For example, (a) the need for, and usefulness of, training of Staff and Commissioners in a sustainable manner, which will facilitate improved technical capacity to conduct investigations, institutional memory, information sharing and public education; (b) meetings with the national competition agencies; (c) development of guidelines for enforcement of Community Competition Law; (d) working with and through the media; and (e) the data gathering and research activities that are earmarked for December 2012.

4.0 Strengthening of Capacity

Staff Training

- Three members of Staff participated in the Cabinet-sponsored National Customer Service Training Programme. The training is designed around the Customer Service Monitoring and Evaluation System and is intended to equip public sector entities to implement the System, thereby effectively measuring and analyzing their service delivery utilizing comprehensive and evidence based methodology.
- A Commissioner participated in the 2011 Annual Conference of the International Competition Network (ICN), which was held on May 17th to 20th, in the Hague, the Netherlands. The Commissioner spoke on the human resource issues from the perspective of a young Competition Agency and described issues related to competition enforcement given constraints brought about by limited capacity and qualified personnel, training challenges and funding.
- The Executive Director and Senior Legal Counsel participated in the “*I Meeting of the Regional Working Group on Trade & Competition*” hosted by UNCTAD and SELA in Bogota, Colombia. The objective of the meeting was to officially establish the Working Group on Trade & Competition of Latin America and the Caribbean, as a forum of authorities for regional cooperation, consultation and coordination, and for coherence of trade and competition policies in the Latin American and Caribbean countries. Another objective was to facilitate an exchange of opinions about the interests and goals of the region’s countries.

The FTC’s paper entitled “The role of Public Policy and its relationship to Competition Policy: Jamaica’s Experience”, was presented in the discussion session on the importance of coherence between competition and government policies. The paper discussed the importance of having a strong link between competition and government policies and briefly described Jamaica’s experience with regulated sectors, state owned enterprises, private sector operations as well as protectionist and procurement policies.

Legislative process

In its effort to continue its bid to strengthen the competition legislation the FTC submitted to the Attorney General recommendations for amendments to the FCA that would address several of the legislative challenges that has been highlighted while dealing with the acquisition of Claro by Digicel. Amending the FCA and the TA in the manner recommended would place the FTC in a better position were there to be a similar transaction, not only with respect to the telecommunications sector, but to other sectors as well.

In addition to the previously submitted recommendations with respect to the draft FCA Bill, the recommendations are:

- a. Improvement of draft provisions relating to the establishment of the Tribunal to conduct hearings.
 - b. Inclusion of merger review provisions, to ensure prior examination of agreements, thereby avoiding transactional costs to firms when the agreement is examined during performance or after it is performed and found to be in violation of the FCA.
 - c. Provision for injunctive relief designed to provide another remedy for breach of the FCA aside from fines or damages. One possible obstacle to the FTC obtaining injunctive relief is the likely requirement for an undertaking in damages to be given at the stage for the application of an interim injunction whereby this remedy is pursued to prevent the consummation of an agreement. We are of the view that there should be no such requirement as a rule when a body such as ours is charged with a law enforcement responsibility in the public interest.
- The FTC's recommendation with respect to the Telecommunications Act were:
- a. The referral obligation in section 5 of the Telecommunications Act (TA) whereby matters of substantial competitive significance are to be referred to the FTC after consultation with the Office of Utilities Regulation (OUR), must also relate to a discretion exercisable by the relevant Minister under the TA in order to avoid inconsistency in courses of action that may be adopted. This may be achieved by way of a general provision and specific provisions in the sections of the TA whereby the discretion of the relevant Minister is to be exercised.

Summary of Main Programmes for the 2012-2013 Financial Year

The Commission's main programmes for the 2012/2013 Financial Year are:

Advocacy

1. 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.

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.
- Resolution rate of 80 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

Regional & 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.

Compensation

- **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	0	0	0	330,000
Emile Leiba	\$27,500 per month (July 2011 – March 2012)	0	0	0	247,500

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	2011/2012	6,062,892	0	796,500	303,145	0	0	7,162,537
General Manager	2011/2012	4,883,623	0	796,500	246,796	0	0	5,926,919
Senior Legal Counsel	2011/2012	5,157,570	0	796,500	0	0	0	5,954,070
Competition Bureau Chief	2011/2012	6,328,377	0	796,500	316,419	0	0	7,441,296

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, 2012

FAIR TRADING COMMISSION

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AUDITOR GENERAL'S DEPARTMENT
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P.O. BOX 455
KINGSTON 5
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 11, which comprise the Statement of Financial Position as at March 31, 2012, 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.

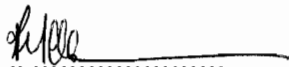
I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

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, 2012, 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

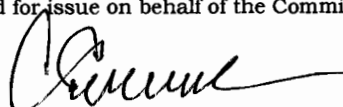
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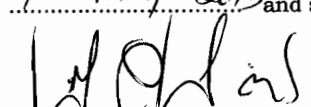
Fair Trading Commission
Statement of Financial Position
as at March 31, 2012

	Note	2012 \$	2011 \$
Non-current assets			
Property, plant and equipment	6	2,230,059	3,527,349
Current assets			
Receivables	7	1,016,112	853,168
Investment		3,827,910	4,724,023
Prepayments		59,680	84,474
Bank Balances	8	60,686	2,909,383
		<u>4,964,388</u>	<u>8,571,048</u>
Current Liabilities			
Accounts Payables		3,162,136	2,860,974
Statutory		16,043,145	14,492,175
Accruals		8,949,616	10,127,127
	9	<u>28,154,897</u>	<u>27,480,276</u>
		<u>(23,190,509)</u>	<u>(18,909,228)</u>
Net Assets		<u>(20,960,450)</u>	<u>(15,381,878)</u>
Equity			
GOJ Capital Fund		30,806	335,422
Accumulated Deficit		(20,991,256)	(15,717,300)
		<u>(20,960,450)</u>	<u>(15,381,878)</u>

Approved for issue on behalf of the Commission on

7th May 2015 and signed on its behalf by:


Chairman


Commissioner

Fair Trading Commission
Statement of Financial Performance
for the year ended March 31, 2012

	Notes	2012	2011
Revenue		\$	\$
Income-IDB		5,279	3,124
Income-IDRC			116
Income- GOJ Subvention		69,764,018	66,327,311
Appropriations-In-Aid Fund		189,520	125,000
Total Operating Revenue		<u>69,958,817</u>	<u>66,455,551</u>
Operating expenses			
Compensation of Employees	10	52,996,262	51,871,424
Travelling & Transportation	11	5,913,516	6,457,991
Premises Related Expenses	12	8,294,425	7,751,163
Public Utilities	13	2,221,093	1,870,153
Goods and Services	14	4,552,975	4,178,788
Depreciation		1,875,696	2,400,407
Bank Charges	16	68,415	90,065
Total Operating Expenses		<u>75,922,382</u>	<u>74,619,991</u>
Net Loss from Operations		(5,963,565)	(8,164,440)
Other Income		169,335	148,827
Interest Income -CD & Bank		215,658	368,828
Transfer from GOJ/USAID Grant		304,616	2,400,407
		<u>689,609</u>	<u>2,918,062</u>
Deficit for the year		<u>(5,273,956)</u>	<u>(5,246,378)</u>

Fair Trading CommissionStatement of Changes in Equity
for the year ended March 31, 2012

	GOJ Capital Fund	General Reserve	Total
	\$	\$	\$
Balance as at March 31, 2010	2,735,829	(10,470,922)	(7,735,093)
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>
Balance as at March 31, 2011	335,422	(15,717,300)	(15,381,878)
Movement in the year		(5,273,956)	(5,273,956)
Transfer to Income	(304,616)		(304,616)
Balance as at March 31, 2012	<u>30,806</u>	<u>(20,991,256)</u>	<u>(20,960,450)</u>

Fair Trading Commission

Statement of Cash Flows

for the year ended March 31, 2012

	2012	2011
Note	\$	\$
Cash flows from operating activities		
Surplus/(Deficit) for the year	(5,273,956)	(5,246,378)
Adjustments:		
Depreciation	1,875,696	2,400,407
Increase in Current Assets	(138,150)	7,545
Increase in Current Liabilities	674,621	4,148,250
Transfer from Capital Fund	(304,616)	(2,400,407)
Net cash provided by operating activities	<u>(3,166,405)</u>	<u>(1,090,583)</u>
Cash flows from investing activities		
Investments	896,113	935,355
Capital expenditure	(578,405)	(204,481)
Net cash used in investing activities	<u>317,708</u>	<u>730,874</u>
Cash flows from financing activities		
GOJ-Capital Fund	<u>-</u>	<u>-</u>
Net cash flows from financing activities	<u>-</u>	<u>-</u>
Increase/(decrease) in cash and cash equivalents	(2,848,697)	(359,708)
Cash and cash equivalents at beginning of year	<u>2,909,383</u>	<u>3,269,092</u>
Cash and cash equivalents at end of year	<u>60,686</u>	<u>2,909,383</u>

Fair Trading Commission

Notes to the Financial Statement

For the year ended March 31, 2012

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 the requirements of the International Public Sector Accounting Standards (IPSAS). IPSASs are developed by the International Public Sector Accounting Standards Board (IPSASB), an independent board of the International Federation of Accountants (IFAC).

The preparation of the financial statements to conform to IPSAS requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities, contingent assets and contingent liabilities at the balance sheet date and the revenue and expenses during the reporting period. Actual results could differ from those estimates. The estimates and the underlying assumptions are reviewed on an ongoing basis and any adjustments that may be necessary would be reflected in the year in which actual results are known.

These financial 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.

Fair Trading Commission

Notes to the Financial Statement

For the year ended March 31, 2012

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, 2012 was \$65,158,925.75

Fair Trading Commission

Notes to the Financial Statement

For the year ended March 31, 2012

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, 2012

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, 2011	876,678	1,640,861	1,133,471	3,388,774	11,139,160	18,178,945
Additions	-	-	8,157	-	570,248	578,405
Disposal					(617,711)	(617,711)
Closing Balance	876,678	1,640,861	1,141,628	3,388,774	11,091,697	18,139,639
Depreciation April 1, 2011	876,678	1,640,861	840,658	1,509,925	9,783,474	14,651,595
Charge for year	-	-	31,928	241,908	1,601,860	1,875,696
Disposal					(617,711)	(617,711)
Closing Balance	876,678	1,640,861	872,586	1,751,833	10,767,623	15,909,580
Net Book Value						
March 31, 2012	-	-	269,042	1,636,941	324,074	2,230,059
March 31, 2011	-	-	292,813	1,878,849	1,355,686	3,527,349

Fair Trading Commission

Notes to the Financial Statement
For the year ended March 31, 2012

	2012	2011
7 Receivables	\$	\$
Innovative Corporate Solution	23,898	23,898
GCT Refund	394,311	303,064
Over payment -Kevin Harriott	-	36,834
Overpayment-Gleaner co.	43,836	43,836
Interest Receivables-C.O.D.	14,052	4,993
Salary Advance	24,500	26,000
Item purchased not received	2,000	2,000
Over pd.Ed Tax	35,988	-
W/H tax on COD 09/10 TO 11/12	477,527	412,543
	<u>1,016,112</u>	<u>853,168</u>
8 Cash and Cash Equivalents	\$	\$
RBTT Bank-IDRC US\$ A/C	-	3,865
RBTT Bank-IDB US\$ A/C	54,686	380,772
RBTT Bank-Current A/C	-	2,518,746
Petty Cash	6,000	6,000
	<u>60,686</u>	<u>2,909,383</u>
9 Current Liabilities	\$	\$
<i>Accounts Payables</i>		
Paybles	-	960,495
Electricity	193,645	207,009
Rental of Office Space	1,356,155	1,277,082
Other Payables	205,867	416,388
RBTT Current Account	1,406,469	-
	<u>3,162,136</u>	<u>2,860,974</u>
<i>Statutory</i>		
Stat. ded. owed by Min. 2010	939,331	-
Statutory Ded.owed by Min.11/12	878,614	597,877
Statutory Deductions owed by FTC	330,902	-
TAJ Ots. Stat. Ded. Int.& Penalty	13,894,298	13,894,298
	<u>16,043,145</u>	<u>14,492,175</u>
<i>Accruals</i>		
Vacation Leave Pay	2,984,098	3,103,209
Outstanding Retro Salaries	5,965,518	-
Outstanding Salaries 09/10	-	7,023,918
	<u>8,949,616</u>	<u>10,127,127</u>
	<u>28,154,897</u>	<u>27,480,276</u>

Fair Trading Commission

Notes to the Financial Statement
For the year ended March 31, 2012

10 Compensation of Employees	2012	2011
	\$	\$
Salaries	44,715,114	43,426,878
Salaries (Temp) & Wages	810,104	862,729
Accrued Vacation Leave	2,984,098	3,142,881
Clothing & Robing Allowance	43,605	44,460
Meal Allowances	304,441	323,173
Overtime Allowances	217,558	229,578
Staff Welfare	192,570	177,418
Health Plan	2,034,146	2,040,006
Pension Plan Contribution	1,694,625	1,624,301
	<u>52,996,262</u>	<u>51,871,424</u>
11 Travelling and Transportation	2012	2011
	\$	\$
Motor Vehicle Allowances	5,527,966	5,922,584
Cab Fare	600	1,200
Petrol & Oil	251,282	114,253
Repair & Maintenance-Motor Vehicles	133,668	161,381
Air Fare		86,203
Subsistence (Foreign)	-	172,370
	<u>5,913,516</u>	<u>6,457,991</u>
12 Premises related expenses	2012	2011
	\$	\$
Rental of Building	8,193,100	7,672,538
Other Rental	101,325	78,625
	<u>8,294,425</u>	<u>7,751,163</u>
13 Public Utilities	2012	2011
	\$	\$
Electricity	1,388,635	1,156,293
Telephone & Fax	832,458	713,860
	<u>2,221,093</u>	<u>1,870,153</u>

Fair Trading Commission

Notes to the Financial Statement
For the year ended March 31, 2012

14 Goods and Services	2012	2011
	\$	\$
<i>Professional Services</i>		
Advertising & Public Relation	769,883	602,618
Consultancy	332,650	808,148
Consulting (Legal Fees)	39,000	
Stipend (Commissioners)	1,817,875	1,550,383
	<u>2,959,408</u>	<u>2,961,149</u>
<i>Office & General Expenses</i>		
Drugs & First Aid	7,730	1,756
Text & Reference Books	28,809	
Food & Drink	265,213	151,303
Printing and Stationery	323,326	431,700
Postal & Cable	60,550	55,597
Subscriptions	69,418	69,718
Repairs & Maintenance	99,533	71,681
Computer Software Expenses	452,839	
Appropriation in Aid/Expense	25,000	
Staff Welfare		
Insurance	162,963	184,936
Sundry expenses	4,789	11,316
	<u>1,500,171</u>	<u>978,007</u>
<i>Miscellaneous Expenses</i>		
Sanitation, Security Serv. Donation etc.	93,396	239,632
	<u>4,552,975</u>	<u>4,178,788</u>
16 Bank Charges	2012	2011
	\$	\$
RBTT IDB US\$ Account	1,829	27,053
RBTT US\$ Account	-	1,294
RBTT Account	66,586	61,718
	<u>68,415</u>	<u>90,065</u>