

COMPETITION FOCUS



Mergers and Acquisitions (M&As): Part 1

The main objective of the Fair Trading Commission (FTC) is to promote and protect the process of competition in Jamaican markets.

"Once competition is allowed to operate in markets, consumers will have a choice among a wide variety of goods and services at competitive prices."

In the world of commerce, it is not unusual for any business to purchase one of its competitors. Such activities are generally referred to as mergers and acquisitions (M&As).

During the last two decades, the Caribbean

Community (CARICOM) has witnessed numerous M&As spanning many key sectors of the economy. During the last year, for instance, competition in Jamaica has been affected by M&As in the following segments of the economy, among others: banking; life insurance; and subscriber television cable). Since M&As always result in markets in which fewer businesses compete, they may harm the competitive process...but then again, they could foster competition by allowing businesses to operate more efficiently.

The Jamaican competition legislation (the Fair Competition Act) does not empower the FTC to review M&As.

Without such authority, the FTC is unable to prevent any business from merging with or acquiring another business; regardless of the threat the M&A might pose to the competitive process in the respective market; and for consumer welfare in general.

Consequently, the FTC is unable to reverse any merger or acquisition which harms the competitive landscape.

How many other countries review M&As?

Competing businesses in all developed and most developing countries with a competition authority must get permission from their competition authority to merge with each other.

The only other two CARICOM countries with competition legislation, Trinidad & Tobago and Barbados, allow their competition authorities to review proposed M&As.

Upon review, the M&A will be approved if the competition authority is of the opinion that it will enhance competition;

otherwise the M&A will not be approved.

"Around the world, approximately nine out of every ten M&As are approved upon review."

What are the main benefits and costs of having merger review provisions?

This and related issues will be discussed in the 9th annual Shirley Playfair Lecture at the Knutsford Court Hotel on September 10.

Admission is free and discussions begin at 5:30 pm. Be sure to attend and participate.

MAIN POINTS:

- The Fair Trading Commission does not have the authority to review Mergers & Acquisitions (M&As).
- Some M&As improve the competitive process while others harm the competitive process and consumers.
- Trinidad & Tobago and Barbados empower their competition authorities to review M&As