

**MESSAGE FROM
MINISTER OF COMMERCE, SCIENCE & TECHNOLOGY,
HON. PHILLIP PAULWELL
FAIR TRADING COMMISSION'S 10TH ANNIVERSARY BROCHURE**

Congratulations to the Fair Trading Commission (FTC) on your ten years of existence not only as the watchdog for fair competition in the conduct of trade and business but also as a facilitator of product innovation and development.

Indeed, competition leads to optimal allocation of scarce resources, while ensuring the highest quality goods and services are offered for sale to the consumer at the lowest possible prices. Regardless of size, Jamaican businesses are becoming increasingly aware of the competitive nature of our economy and have been making the necessary adjustments. The Government, in that regard, plays a key role in creating the conditions and providing, where possible, support for business growth. In that regard, the Fair Trading Commission (FTC) continues to provide for the maintenance and encouragement of competition in the conduct of trade, business and in the supply of services.

I am pleased to note that for the financial year 2002/2003, the Commission has completed 557 cases of a total of 1,111 investigated cases, over the period April 1, 2002 to March 2003. This means that the number of cases investigated increased by 45% and the number of cases closed increased by 169%. This compares with 763 cases investigated and 207 being completed in the equivalent period of the previous financial year.

A total of 585 cases were received during the current financial year. Of that number, 496 cases were classified as cases of "Misleading Advertising" (MA). Similar to the previous period, MA cases accounted for the majority of matters investigated, comprising approximately 84% of all cases dealt with, compared to 70% in 2001/2002. Most of the MA cases fell into the following product categories: Motor Vehicles (135), Appliances (82), Furniture (46), Computer (31), Education (18) and Apparel (13). One factor which contributes to the increasing trend in MA cases is the growing awareness of the Jamaican consumer about his rights and issues such as product quality and warranties.

Cases deemed 'Not covered by the FCA' (NA) represented the second ranked category of complaints, accounting for 17% (47 of 585) of the cases brought before the FTC, compared with 16% in the previous period. Although the number of NA cases has increased in absolute terms, there has been no significant change in its proportion to the total number of cases. Figures 1 and 2 of Appendix provide a comparison with the previous financial year.

In comparison to the above categories, each of the others represented a relatively small number and low proportion of cases dealt with. One case was received in the category "Abuse of Dominant Position", seventeen (17) in the category "Opinion Requested", three in the category "Sale Above Advertised Price" and twenty-one (21) in the category "Offences Against Competition".

Overall, the Commission successfully completed approximately 50% of the cases investigated during the financial year, compared with 27% in the previous financial year. This increase in the resolution rate was achieved in spite of an increasing number of cases being investigated. This was achieved in part by the implementation of enhanced standards and procedures in the investigative process (see Figures 3 and 4 of Appendix).

There was a significant improvement in the resolution rate for cases of "Misleading Advertising". Close to half (47%) of MA cases were resolved, as compared with under a fifth (17%) during the previous period. This was achieved despite a 74% increase in the number of MA cases from 537 in 2001/2002 to 936 in the current reporting period.

High resolution rates were also recorded in the categories of "Not Covered by the FCA" (NA) and "Requests for Opinion" (76% and 61% respectively). NA cases were expeditiously processed in order to quickly direct the Informants to the correct avenues through which they could obtain assistance; and "Requests for Opinion" were treated as high priority.

Despite the increasing number of cases before the Commission, the caseload was managed by improving the investigative process.

Table 3 of Appendix provides a comparison of the Commission's Performance/Achievements Against Targets.

6.0 Legislative Processes

Drafting instructions for Regulations to be established under Section 40 of the FCA were prepared. Progress on the amendments to the Fair Competition (Notices and

Procedures) Regulations, 2000, was slowed to advance the Commission's efforts to have the Act amended. Drafting instructions for procedural guidelines would lend certainty and transparency to the Commission's investigative procedures. These guidelines are to be issued under the Notices and Procedures Regulations.

Detailed and extensive proposals for amending the Act, to cure the jurisdictional dilemma highlighted in the Jamaica Stock Exchange case were completed in July 2002.

Those proposals were the product of many months of research into the statutory methods used by various jurisdictions to ensure a clear separation between the investigative and the adjudicative functions of a Competition Agency. The route decided on was influenced by the system observed in the United States of America. Ideas were pulled too from the Canadian Competition statute.

8.0 Priority Focus for the 2003/2004 Financial Year

For the Financial Year 2003/2004, the Commission has established as its prime goals the following: -

- Resolve complaints received regarding breaches of the FCA in a more timely manner.
- Reduce the incidence of anti-competitive cases in specific sectors by increasing public awareness through Public Education; strengthening the Commission's understanding of the reasons for anti-competitive practices and undertaking studies on anti-competitive activities.
- Influence innovation and encourage improvements in services provided to consumers thereby improving competitiveness among all players in the market. Educate manufacturers and distributors as to the need to provide adequate and relevant information on products and services offered for sale.
- Achieve a wider level of understanding of the FTC and the FCA by consumers, the business community and policy makers within Government thereby improving competitiveness among players in various sectors. Focus on the business community, to educate them on their responsibilities under the FCA, thereby reducing breaches of the Act.
- Assist the Ministry of Foreign Affairs & Foreign Trade as it seeks to keep Jamaica's competition policy relevant, thereby contributing to the formulation of FTAA, CARICOM and WTO Rules in the area of Competition Law and Policy.

9.0 Strategic Focus for the Medium to Long Term

Strategies to be employed include:

- (a) Initiating quick action into complaints received;
- (b) Monitoring the market so that investigations can be initiated even when there are no complaints;
- (c) Prosecuting breaches of the FCA in a timely manner;

- (d) Increasing public awareness through Public Education;
- (e) Undertaking studies on anti-competitive activities;
- (f) Disseminating information on the FTC directly to Government Ministries and also in the print, video, audio and electronic media;
- (g) Participating in seminars, workshops and meetings with Government policy makers, various associations, community groups and educational institutions;
- (h) Focusing on the business community to educate merchants on their responsibilities under the FCA, thereby reducing breaches of the Act;
- (i) Attending Free Trade Area of the Americas (FTAA) and CARICOM Inter-Governmental Task Force (IGTF) Meetings;
- (j) Attending International Seminars, specifically those hosted by other Competition Agencies, the International Competition Network (ICN), the United Nations Conference on Trade and Development (UNCTAD) and the Organization for Economic Co-operation and Development (OECD).;
- (k) Provide timely opinions to the Ministry of Foreign Affairs and Foreign Trade on sundry matters.

10.0 Budgetary Proposal For 2003/2004

Table 1 below summarises the Budgetary Request for the Financial Year 2003/2004 and the actual expenditure for the previous three (3) Financial Years.

Table 1: Budgetary Allocation for 2003/04 Financial Year and Three Year Actual Expenditure (\$)

Object	2003/2004 Approved	2002/2003 Actual	2001/2002 Actual	2000/2001 Actual
Compensation of Employees	30,425,197	24,652,702	23,726,175	24,607,387
Travel Expense & Subsistence	1,744,014	1,632,161	1,187,675	1,787,109
Rental Of Bldg., Machinery & Equip.	3,096,828	2,866,196	2,895,547	3,113,516
Public Utility Services	782,800	769,195	709,390	634,791
Purchase of other Goods & Services	2,826,161	2,469,565	2,678,182	2,691,784
Asset Purchases	2,040,000	76,623	301,351	975,716
Totals	40,915,000	32,466,442	31,498,320	33,810,303

Phillip Paulwell
Minister
Ministry of Commerce, Science & Technology
July 16, 2003

APPENDIX

Table 2: Cases Investigated and Completed for the year 2002/2003

<i>Breach/Investigation</i>	<i>Investigated</i>	<i>Completed</i>
Abuse of Dominant Position	13	11
Application for Authorization	4	4
Double Ticketing	-	0
Market Restrictions	2	0
Misleading Advertising	936	438
Not covered by the Act	79	60
Request for Information	2	0
Request for Opinion from FTC	33	20
Sale Above Advertised Price	8	70
Other Offences Against Competition	34	17
Tied Selling	0	0
<u>TOTAL</u>	1,111	620

Some of these cases were carried over from previous periods.

Figure 1:

CASES INVESTIGATED
FOR 2001/2002

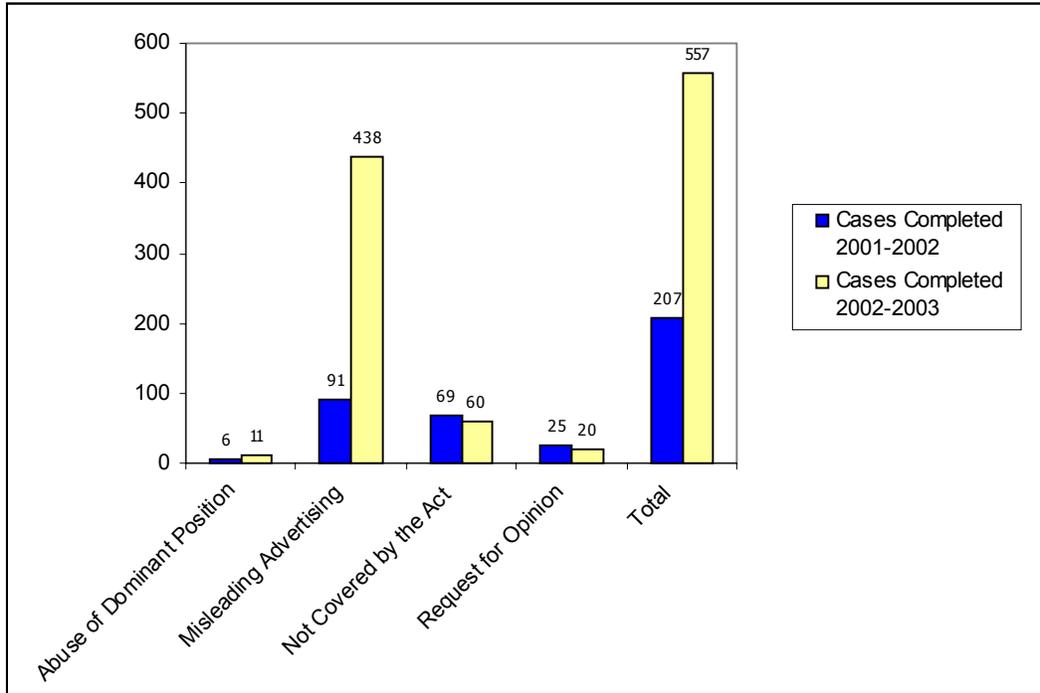


Figure 2

CASES INVESTIGATED
FOR 2002/2003

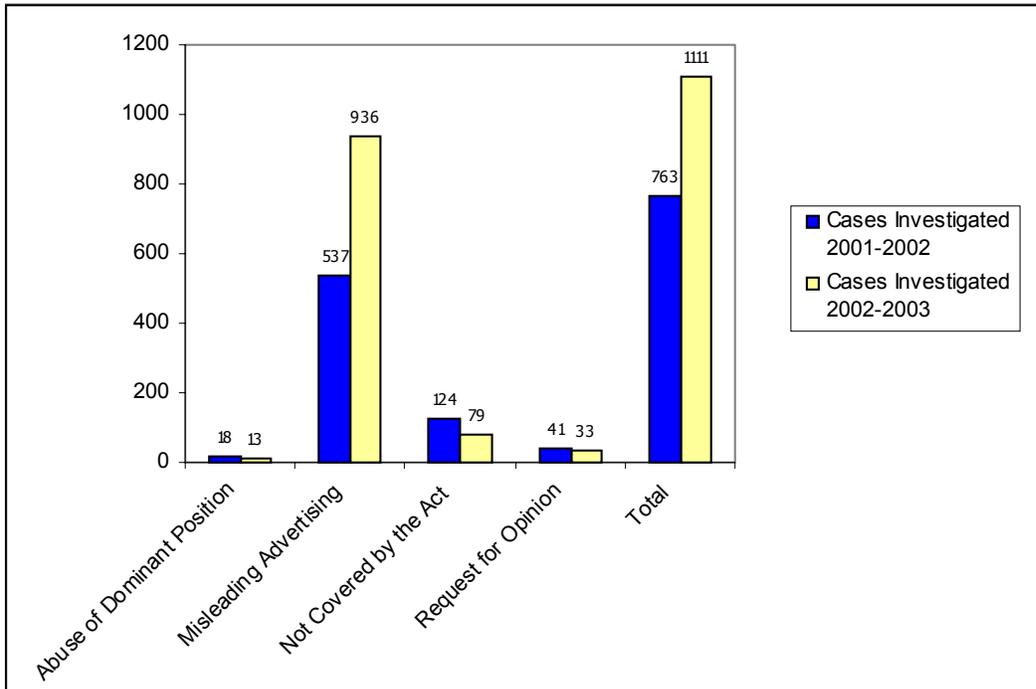


Figure 3: Investigation Procedures into Anti-competitive Practices

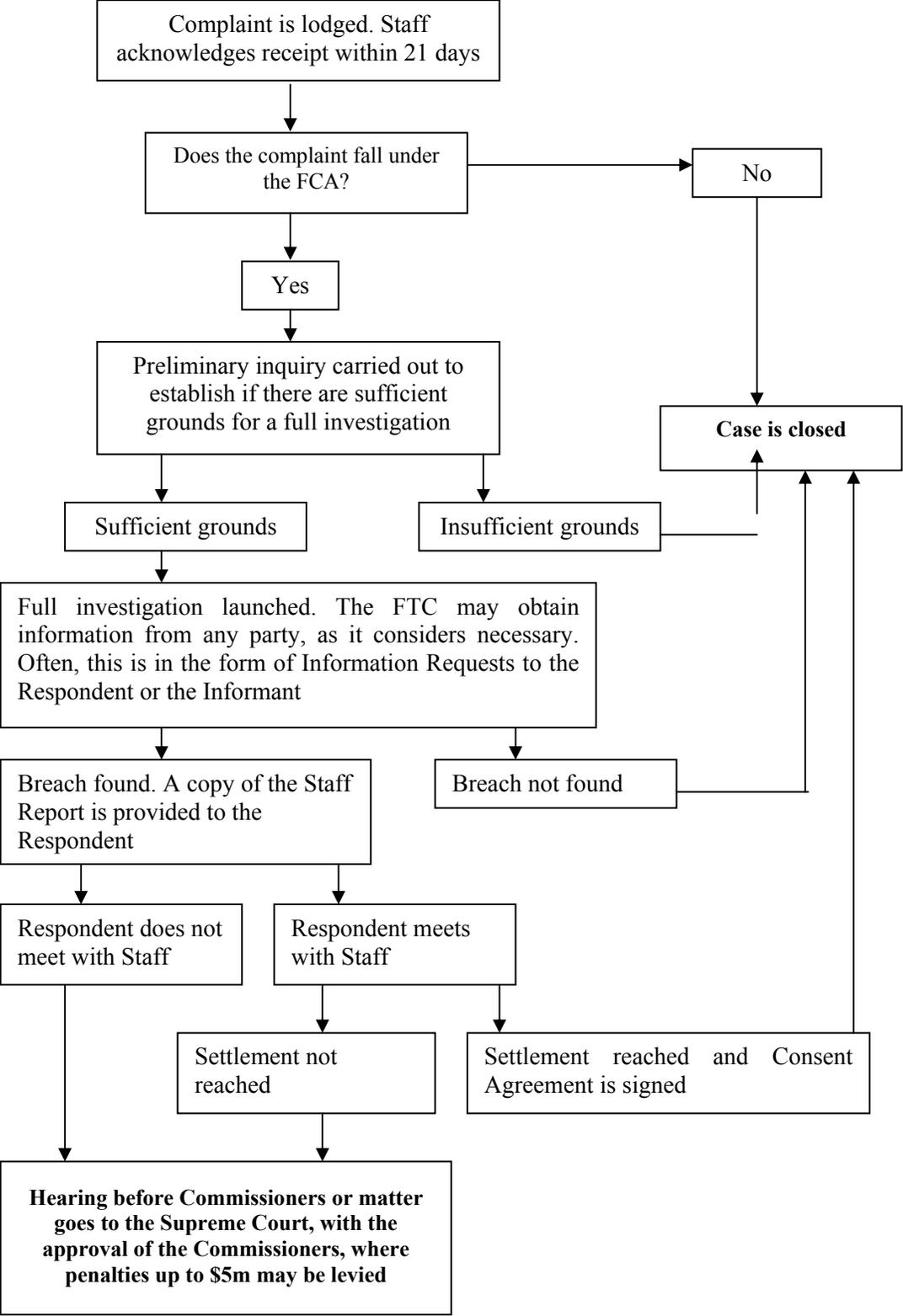


Figure 4: Investigation procedures into consumer affairs matters

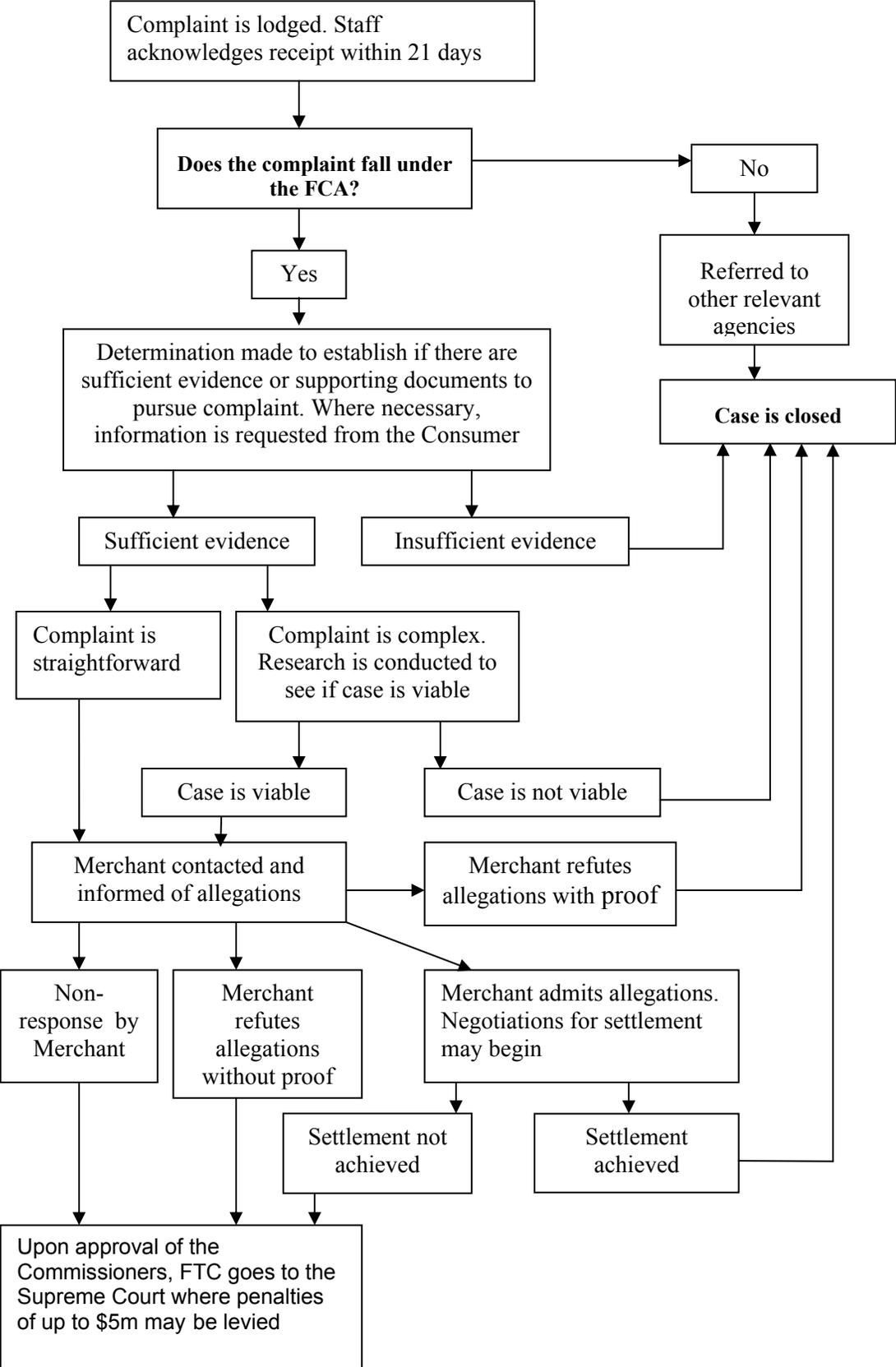


Table 3: Planned (Target) and Actual Performance for FY 2002/2003

Final Output	Target	Actual performance
1. Resolve complaints received regarding breaches of the FCA in a timely manner.	Forty percent (40%) resolution rate for complaints investigated during the Financial Year.	50%
2. Reduce the incidence of anti-competitive cases in specific sectors.	2(a) A minimum of twelve (12) press statements issued per year.	Twelve (12) press statements issued.
3. Influence innovation which will result in improved services provided to consumers and improved competitiveness among all players in the market.	3(a) A minimum of ten (10) publications (advisories /opinions/guidelines) issued per year.	Eleven (11) publications issued.
	3(b) Three seminars/workshops hosted by the FTC during the year.	Four seminars/workshops hosted.
	3(c) Four meetings with business entities/trade groups and educational institutions with a view to reducing anti-competitive practices by addressing the nature of complaints directly.	Ten (10) meetings held with these groups.
	3(d) Two workshop or meeting with Government policy makers or Govt. Depts. during the Financial Year.	Four meetings with Govt. Agencies/ Departments held. No workshops hosted.
4. Assists the Ministry of FA & FT on Jamaica's competition policy, thereby contributing to the formulation of FTAA, CARICOM and WTO Rules.	4. Participation in FTAA Negotiating Group on Competition Policy; CARICOM IGTF meetings on the finalization of Chapter VIII relating to the Rules of Competition and Chapter IX relating to Disputes Resolution; attendance at international fora on Competition Law & Policy.	4. All FTAA and JTAT meetings attended. Attended nine fully funded international seminars – presented at eight seminars