

MINISTRY PAPER NO.: _____

PERFORMANCE OF THE FAIR TRADING COMMISSION FOR FINANCIAL YEAR 2006/2007 AND FOCUS FOR FINANCIAL YEAR 2007/2008

1.0 Purpose of Ministry Paper

This Ministry Paper is intended to provide highlights of the performance of the Fair Trading Commission (FTC) for the 2006/2007 Financial Year and also to outline the main focus of the Agency for the 2007/2008 Financial Year.

2.0 Role and Function

The FTC was established in 1993 to administer the Fair Competition Act (FCA). The FCA provides for the maintenance and encouragement of competition in the conduct of trade and business and in the provision of services in Jamaica.

3.0 Priority Programmes and Targets

For the Financial Year 2006/2007, the Commission set the following programmes as its main priorities:

- Investigate complaints and seek amicable resolutions where possible. Recover where possible through Consent Agreements, costs incurred in investigations.
- Initiate legal action for those complaints for which out of Court settlements are not forthcoming and conclude legal matters before the courts.
- Prepare and disseminate advisories, opinions and guidelines. Develop and execute media campaigns and organize seminars, workshops and meetings.
- Meet with business entities, trade groups and educational institutions. Educate the private sector (manufacturers and distributors) on the requirements of the FCA and the need to provide adequate information on products and services offered for sale, thereby reducing breaches of the Act.
- Continue to enforce provisions of the FCA as they relate to the Telecommunications Industry.
- Strengthen the Commission's understanding of the elements of anti-competitive practices and undertake industry studies.
- Participate in, and organize appropriate forums for policy makers within the Government. Hold meetings with various associations, educational institutions, Government agencies and technical advisors within the public sector.
- Spearhead competition advocacy – coordinate activities with the Consumer Affairs Commission, the Bureau of Standards of Jamaica, the Ministry of Education, and other arms of Government.

- Facilitate the training of the judiciary.
- Assist the Ministry of Foreign Affairs & Foreign Trade as it seeks to determine Jamaica's competition policy, thereby contributing to the formulation of CARICOM Competition Law and Policy.
- Participate in the CARICOM Inter-Governmental Task Force (IGTF) meetings on the finalization of Chapter VIII of the revised Treaty of Chaguaramas, relating to the Rules of Competition; and the establishment of the Regional Competition Authority.
- Provide technical support in the development of the CARICOM Chapter IX on Disputes Resolution.

4.0 Highlights of Performance/Achievements

4.1 Cases Received and Investigated

Over the period April 1, 2006 to March 31, 2007, a total of eight hundred and thirty-seven (837) cases were investigated by the Commission with two hundred and fifty-three (253) being completed and closed. This compares with one thousand four hundred and fifty-eight (1,458) cases investigated and three hundred and one (301) being completed in the equivalent period in the previous Financial Year.

A total of ninety-three (93) new cases were received during the period. Of that number, sixty-seven (67) cases were classified as cases of 'Misleading Advertising' (MA). Similar to the previous period MA cases accounted for the majority of complaints received, comprising approximately seventy-two percent (72%) of all cases dealt with. Of the eight hundred and thirty-seven (837) cases investigated during the period, six hundred and ninety-one (691) were classified as MA. The majority of MA cases were against used car dealers, furniture/appliance retailers and providers of telecommunications services who use marketing promotions that attract, but sometimes mislead consumers.

Cases deemed 'Not covered by the FCA' (NA) formed the second highest category of complaints received, accounting for approximately eighteen percent (18%), of the cases received (17 of 93), compared with ten percent (10%) in the previous period. There were seven (7) cases (8%) in the category 'Offences Against Competition'.

The reduction in number of cases received resulted from the emerging shift in focus from consumer matters to competition matters in which issues are researched on the broad/macro level. A Ministerial Directive issued on May 31, 2005 urged the Fair Trading Commission to "take steps to divest itself of work in relation to Consumer issues and concentrate on Competition issues". The Commission has since launched a number of investigations into various sectors in an effort to identify patterns or trends in the relevant sector which may either be a result of, or lead to, anticompetitive activities and distortions of the various markets. Some of these investigations are described below.

4.2.1 Out-of-Court Settlements & Other Agreements

FTC v. Solid Agency Ltd. (Solid)

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

On the day of the show, the Respondent advertised that due to the inclement weather, the show had been rescheduled for the following day, Sunday, December 22, 2005 to begin at 2:00 p.m. On that date, two of the artistes did not perform; and the show did not begin at 2:00 p.m. as advertised.

The Commission initiated an investigation into the matter and concluded that the Respondent's conduct constituted a breach of Section 37 of the FCA. The Commission informed the Respondent of the breach. The Respondent acknowledged the breach and a Consent Agreement was agreed upon.

Upon consultation with Dr. John Hilke, Competition Law Consultant from the USFTC, it was determined that a public education effort focusing on the specific sector could be an effective tool in attempting to combat the problem. Rather than going to Court on this one matter the FTC held a seminar on Monday, October 23, 2006 at the Knutsford Court Hotel, for the relevant players in the industry, being event promoters, major event sponsors and other persons and organizations with related interests. The seminar outlined the obligations under the FCA of persons involved in staging events, with presentations being made on misleading advertising and exclusive sponsorship arrangements. In the Press Release that followed the seminar, the Staff issued a notice that from hereon it will be prosecuting any promoter who is in breach of the FCA.

4.2.2 Court Matters

FTC v. Jamil International

In August 2002 an Informant visited the Respondent's premises where she saw a jacuzzi displayed with a mixer and a flexible shower tube. Upon the Respondent's sales representative's confirmation that the accessories would be sold with the jacuzzi at one price, the Informant made her payment. What was later delivered, was the jacuzzi without the accessories and when the Informant contacted the Respondent, she was told that she could obtain the accessories at a discounted price. On being contacted by the Staff, the Respondent explained that the accessories were on display only to show how they could work with the jacuzzi, not as a part of the package.

Having completed its investigations the Staff concluded that there was a supportable charge of Misleading Advertising. A suit, for breach of Section 37 of the FCA, was filed in the Supreme Court on May 3, 2006. A trial date is being awaited.

4.3.1 Macro Investigations

Automobiles - Re-stocking Fees

In light of numerous complaints received by the FTC regarding the amounts which Newline Motors Ltd. and Worldtron Ltd. are charging as “restocking fees”, an investigation was launched to determine whether these Companies provide consumers with sufficient information regarding the re-stocking charges applicable when purchasing used automobiles.

Letters were sent to fifteen other used car dealers in order to obtain information regarding whether they charge restocking fees, and if so, how these fees are determined. Replies were received from ten dealerships. The information received revealed that, of the ten dealers, Newline Motors was the only one that computes its re-stocking fee as a percentage of the sale price of the vehicle, as opposed to a percentage of the deposit on the vehicle. It was noted also that Worldtron Limited is the only one which charges a fixed fee as high as Thirty Thousand Dollars (\$30,000.00). In both instances information regarding Newline and Worldtron restocking fees is available on documents which require the signature of the buyer. Following a determination as to whether this document is presented to customers prior to their making a purchase, the FTC will be amending its Guidelines to Purchasers of Used Cars, to include this information.

Automobiles - Motor Vehicle Repairs

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

The Commission has embarked on discussions with the Motor Vehicle Repairers Association (MVRA) with a view to establishing standards of procedures for motor vehicle repairs. The Association advised that together with the Ministry it had researched the matter some three (3) years ago; and a draft document was sent to Cabinet, but that the recommendations were not executed.

The FTC decided to pursue the matter and examined existing standards and procedures for motor vehicle repairs in USA (Florida), Australia and other countries. A draft policy and procedures document was formulated and will be submitted to MITEC for consideration with the hope that it will be enacted into law.

Computers – Computer Malfunction

Arising out of numerous complaints on the quality and durability of computers which are assembled in Jamaica, the FTC undertook to determine whether persons who are

assembling and selling these computers are using sub-standard parts. It was found that the damage to the computers was consistently being attributed to one or a combination of the following factors: power surge, unstable power supply, dust damage, user errors, misuse, ants attack, virus and worms and exposure to high temperatures.

The Department of Customs has supplied the FTC with data related to the importation of computers and computer parts for the years 2004 and 2005. Additionally, the Companies Office of Jamaica provided a list of all entities which are registered to sell computers. In January 2007, letters were sent to a select number of these entities requesting information on computers sold and repaired, for the period 2004 to 2006. This information will be used in completing our analysis of the issues raised in the complaints, following which the FTC will disseminate guidelines for the purchase of computers.

Education - Schools' Refund Policies

In response to numerous complaints regarding the lack of refund policies in schools, the Commission undertook an investigation into the sector. The investigation revealed that many schools fail to provide clear refund policies, and oftentimes, regardless of extenuating circumstances, administrations offer few options for persons who wish to obtain a refund. The FTC is of the view that although each institution should reserve the right to determine its policy regarding refunds, this should be done within some regulatory framework. In light of this, an approach was made to the Ministry of Education and Youth suggesting that it propose guidelines within which it might develop a framework for the formulation of refund policies. The draft guidelines which were agreed upon are as follows:

- Amounts that are nonrefundable should be clearly identified in all relevant documents published or issued by the school, and should be made available to persons seeking to register at the very beginning of a transaction.
- A school should levy no penalty charges where the institution, as opposed to the student, is in error. The institution should make refunds in cases where it has levied charges in error. Penalty charges, such as those associated with late registration fees and late payment fees, should not be levied if it is determined that the student is not responsible for the action causing the charge to be levied.
- Schools should advise students that any notification of withdrawal or cancellation and request for refund must be in writing and addressed to the relevant authority. A student's written notification of withdrawal or cancellation and request for a refund provides a record of a transaction and may encourage the timely processing of such requests.
- Schools should pay refunds due on a timely basis.
- Parents /students should be provided with a personal copy of the refund policy, and be advised to keep that document as well as copies of all financial documents.
- Parents should be required to affix their signatures to the school's copy of the refund policy.

The Staff made two presentations at a conference held by the Ministry on April 27, 2006, which was attended by representatives from schools across the nation. The proposed guidelines were outlined at the conference. It was agreed that the Ministry would issue the final document.

Education - Regulation of Overseas Tertiary Institutions in Jamaica

The Commission received several complaints against various foreign based educational institutions concerning the quality of education which is being provided as well as the failure to fulfill promises made to students upon registration. The complaints fall into four broad categories: False claims of accreditation, unclear refund policies, misrepresentation as to facilities offered and unavailability of course materials or teachers with appropriate training. Research has revealed that the problem is a global one and that other countries are concerned that the commercialization of tertiary education will lead to mass salesmanship instead of the provision of quality academic programmes.

The FTC intends to formulate and submit recommendations to the various agencies involved in the regulation of such institutions. These recommendations will be based on the solutions which other countries have employed in an effort to ensure that entities operate on a level which is on par with both national and international standards.

Electronic Equipment - Repair Service

Having received numerous complaints about the failure of technicians who repair electronic equipment, to properly carry out the functions for which they were contracted, the Staff sought to issue a Press Advisory jointly with the Consumer Affairs Commission (CAC), to highlight the responsibilities of persons who offer repair services. Upon further consideration, it was concluded that since Sections 26 and 27 of the Consumer Protection Act (CPA) set out in detail the responsibilities of persons who offer repair services, it was agreed that the CAC should continue on its public education campaign which has proven to be far reaching and effective; and the FTC should end its investigation.

Food - Accuracy of labels

An investigation into the accuracy of food labels originated from a complaint about a brand of orange juice which had two (2) labels with contradicting information affixed to the container. The FTC embarked on an investigation with the objective of preventing further dissemination of unsubstantiated or otherwise deceptive claims about food. The investigation involves a coordinated effort with the Bureau of Standards Jamaica (BSJ), which has primary responsibility for the safety and labeling of products, the Scientific Research Council (SRC) and the Ministry of Health (MOH).

The Commission was concerned with the dangers which misleading representations on food labels pose for consumers with specific health issues, and who rely on such claims to inform their daily nutritional intake. The following issues were targeted:

1. Absolute nutrient and health claims which might be false or misleading (e.g. “fat-free”);
2. Nutrient content claims for foods that contain high levels of nutrients which have health implications (e.g. cholesterol, trans-fat, saturated fat etc.)
3. Comparative nutrient content claims which do not make the basis for the comparison clear (e.g. “1/3 less sugar than...”, “healthier than...” etc.).
4. Claims that a particular ingredient has various health benefits, such as “calcium promotes healthy bones and teeth” when the food does not contain sufficient amounts of the nutrient in order to bring about the stated results or benefits.

The ultimate aim of this Study is to facilitate the implementation of standards and regulations with regard to nutrition labeling and dietary health claims where there are none. With the implementation of such regulations and with the cooperation of the respective agencies, a standardized test can be formulated to provide a transparent, science-based system for verifying the accuracy of nutrient values and health claims on labels. The end result would be that consumers and health professionals alike can be confident that the nutrient information on labels is reliable and that it reflects the nutrient content of the product.

Travel - Airline Special Fares

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

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

Travel - Information on Visa Requirements

Research was conducted to determine whether travel agents have an obligation to inform their customers about visa requirements of the countries to which they intend to

travel. The research revealed that no such obligations have been established under any law or protocol, whether locally or internationally, and the airlines do not bear that responsibility either.

The FTC sent letters to all Travel Agencies and Airlines which operate or conduct business in Jamaica encouraging them to advise persons purchasing tickets through whatever media, that: (a) there may be or are visa requirements for traveling to certain countries; and (b) they should check with the relevant consulates or embassies to determine whether a visa is required and, if so, what the requirements are.

The airlines were also encouraged to include a statement and/or notice or other informational documents on their websites advising of possible visa requirements.

The FTC also recommended to the Ministry of Foreign Affairs & Foreign Trade that it include on its website, information as to the visa requirements for Jamaican nationals traveling overseas, and asked that the Ministry confirm where the responsibility lies for advising of visa requirements. The FTC intends to meet with the Association of Travel Agents in Jamaica with a view to addressing the issue through that medium.

Travel - Loss/Damaged Luggage Policy

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

This information is being tabulated for presentation or publication as part of our consumer advocacy programme.

4.4 Public Education Programmes and Media Campaigns

The FTC continued to inform and educate the public on issues related to competition law and policy. During the 2006/2007 Financial Year the Commission met with various associations, companies and groups. Presentations covered a wide number of topics. Some of these include: "Competition Law and the CSME" , presented to the Business Law Class, University of the West Indies; "Misleading Representations and Omissions in Advertisements", to the National Housing Trust; "The Fair Trading Commission, its Quasi-Judicial Functions and the Law of Association", the Norman Manley Law School; "The Role of the FTC and the FCA", to independent private schools across the island at a conference hosted by the Ministry of Education; "Read Across Jamaica Day", to students of the Mountain View Primary School; "How Competition Law affects the Used Cars Dealers", to the Used Car Dealers Association; "Misleading Advertising and Competition", to the Promoters and Sponsors of Events; "Anti-Competitive

Agreements”, to Tertiary level Educational Institutions; and “Misleading Representation and Competition”, to the Marketing Staff of Red Stripe Limited.

In addition, the FTC launched a series of articles aimed at providing the general public with a basic knowledge of the various facets of Competition Law and Policy as well as the answers to frequently asked questions. Nine (9) articles in the series entitled *Competition Focus*, were published in the Financial Gleaner of the Friday Daily Gleaner. The titles were “What is a Dominant Firm in Competition Law?”; “Cases in Competition Law”; “The Evolution of Antitrust Law and the Impact of Political Will”, “Reconciling Intellectual Property Rights and Competition Law in the Jamaican Context”; “Price Discrimination under the FCA”; “Could Prices in Competitive Markets be Unfair?”; “Why Should we be Concerned with Cartels?”; “The Economics of Competition Law”; and “Growing Through Competition”.

Other articles published in the major newspapers were entitled “A Competitor for the NWC?”; and “Do all Monopolists waste productive resources?”

On Wednesday, September 6, 2006, the FTC hosted its seventh annual lecture in the Shirley Playfair Lecture Series, at the Knutsford Court Hotel. The main presenter was Mr. William Kovacic, Commissioner of the United States Federal Trade Commission. The audience numbered approximately eighty (80) persons comprising representatives of various interest groups and stakeholders such as the business community, the Jamaican Bar, the Judiciary, Government Ministries and Agencies, Professional Associations and academia.

Commissioner Kovacic’s presentation focused on “Competition Policy and the Professions”. He asked the question: “Should Regulators fear Competition?”. Mr. Kovacic reviewed the non-litigation tools used to develop Competition Policy; provided an illustration of how a multi-dimensional strategy can promote the attainment of superior Competition Policy results; and examined the levels of capital investments that should be made in a Competition Agency to enable it to carry out its litigation and non-litigation programmes effectively.

In his animated and informative presentation he described how tools such as advocacy, education, research and industry studies of impediments to competition may be used by Agencies in applying Competition Law to regulated sectors and the professional bodies which they might regulate. He highlighted some of the arguments which such bodies advance in support of their requests for exceptional treatment under Competition Law and emphasized the importance of an Agency’s credibility, as it attempts to strike the proper balance between issues such as professional standards on the one hand and conduct inimical to competition, on the other.

The Jamaica Veterinary Medical Association, the Jamaican Bar Association and the Financial Services Commission provided comments on the subject. These bodies were represented by Dr. Graham Brown, President, Mrs. Denise Kitson, Secretary, and Mr. Brian Wynter, Executive Director, respectively. Dr. Graham Brown’s presentation briefly

described how input from the FTC regarding considerations of Competition Law and Policy has been able to transform his Association into one that encourages rather than restricts competition among its members. In his commentary Mr. Brian Wynter expressed the view that although competition is important to the proper functioning of markets, financial regulatory provisions should have primacy over Competition Law in dealing with the financial sector.

Following the presentations, a spirited discussion ensued in which several persons had their issues addressed by the presenters.

The Lecture was advertised in the major newspapers and several radio interviews with Commissioner Kovacic, the Chairman and Executive Director of the FTC, were held prior to the event.

On the Friday and Saturday immediately after the Lecture, Commissioner Kovacic conducted a two day Workshop for members of the Judiciary at the Sunset Jamaica Grande Beach Resort & Spa. This was the third such Workshop that the FTC was hosting, as a continuation of the Competition Law training program for the Judiciary.

On this occasion the Workshop focused on the areas of Market Definition & Market Power, Abuse of Dominance, Horizontal & Vertical Restraints, Mergers & Acquisitions, and Expert Testimony and the Evaluation of Economic Evidence. The thirteen (13) attendees were made up of nine (9) Jamaican Judges; the Director and a Deputy Director of Public Prosecutions of Jamaica; and two (2) Barbadian Judges. Five (5) of the nine members of the local judiciary had also participated in the September 2004 Workshop, which paid special attention to The Judge's role in the Competition enforcement process. Again, it received favourable responses.

It must be noted that Trinidad & Tobago which has recently enacted its Competition Law had expressed an interest in participating, but unfortunately its request was too late to be entertained.

The FTC conducted two other major seminars during the 2006/2007 Financial Year. On October 5, 2006, the Staff made presentations to students from various tertiary educational institutions including the University of the West Indies, the Christian School for the Deaf, Dells Beauty School, and the Academy of Higher Learning. The session was held at Nettleford Hall at the University of the West Indies, Mona Campus. The presentations comprised an overview of some of the concepts of competition law, an outline of the offence of Abuse of a Dominant Position, and a description of various forms of anti-competitive agreements. Dr. Kevin Harriott, Chief Economist, ended with a discussion on Misleading Advertising and its effect on competition.

The other seminar was conducted on October 23, 2006 at the Knutsford Court Hotel, with the target audience being the relevant players in the events promotions industry, such as event promoters and the sponsors of major events. Over the past three years, the FTC has been receiving a number of complaints which charge that advertisements

related to various staged events were misleading in nature. The complaints included among others: failure of scheduled artistes to perform, failure of events to start at the scheduled times, ticket price being higher than that advertised and failure to notify of changes in venue or any other material change related to the relevant events. It was becoming increasingly obvious that the trend toward anti-competitive conduct among persons or enterprises in the sector had reached an alarming level.

The seminar outlined the obligations under the FCA of persons involved in staging events, with presentations made on misleading advertising and exclusive sponsorship arrangements.

The information was well received and spurred vibrant discussion. Some of the organizations/companies represented were the Ministry of Tourism, Entertainment & Culture, Jamaica Cultural Development Commission, 360° Productions, Platform Media, Supreme Promotions, DNA Entertainment, Jamaica Association of Composers, Authors & Publishers. Air Jamaica, Red Stripe, Digicel Jamaica Ltd., and J. Wray & Nephew.

The FTC presented two guest lectures to final year students in the Faculty of Law of the Cave Hill campus of the University of the West Indies. The purpose of the lecture was to inform students enrolled in the Competition Law course, of the economic concepts underlying competition legislation.

During the year the FTC participated in the radio talk shows Nationwide, Independent Talk, Drive Time Live, Straight Talk and First Edition. A broad range of competition and consumer related issues were discussed. Presentations were also made to students of tertiary level institutions as well as to the senior managers of large firms. The December 2006 issue of the Commission's annual Newsletter was published and circulated to various interest groups.

The Commission continued its public education efforts even though interest at the corporate level is minimal; and it continued to participate in both local and international events.

4.5 Economic Studies

In September 2005 I [Minister Paulwell] issued a directive to the FTC and the OUR for both bodies to carry out a study of the telecommunications sector with a view to determining the level of competition in that sector. That study is scheduled to be completed at the end of March 2007.

The investigation into the markets for electronic money transmission and cambio services, to determine specifically whether the practice of tied selling exists in these markets, is continuing. The FTC has also undertaken an investigation into sundry companies that may be operating outside of the law. Mention of details might prejudice such investigations. A study of the cable television sector which was undertaken during the last quarter of 2005, is now at an advanced stage. Consultations with the OUR on

telecommunications issues continue. The FTC is currently examining Competitive Safeguards Rules for the sector. The FTC also appeared before a Joint Select Committee of Parliament providing its opinion on the 'Jamaica Dairy Development Board' Bill; and is represented on the Energy Policy and Resource Panel of the MITEC as well as the the Steering Committee for the Institutionalization of a National Development Planning Model.

In May 2006 the FTC prepared a position paper on incorporating merger control in the Fair Competition Act; and submitted it to MITEC for review and consideration.

The Staff completed a high profile investigation of allegations of collusion in the Commercial Banking Sector. A copy of the report is available on the Commission's website. Special mention is made of this investigation because of the major lessons learned. These are: (i) There should be a requirement that when submitting complaints, Informants provide certain key pieces of information. In this case, the Informants made an allegation regarding collusion among commercial banks. No information was provided as to which banks were believed to be involved in the alleged collusive activity. Further, the Informants did not provide adequate information as to why they believed that there was collusion. Investigations into collusive activity are very difficult and time consuming; and therefore before the Staff launches a full scale investigation into an allegation it must ensure that the Informants provide a pre-determined set of information. (ii) Relationship between Informants and the FTC — Based on the nature of some of the letters from the Informants, it appears that they are of the opinion that once they lodge a complaint with the FTC, the FTC becomes their legal representative and therefore act on their behalf. This is not so, and this is expressly stated in the FTC's letters of acknowledgement as well as in appropriate public education fora.

5.0 Participation in Development of Trade Policies

During the Financial Year 2006/2007, the FTC continued to participate in meetings of the CARICOM Community Secretariat to review the draft Model Law on Competition Policy.

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

The events included "Regional seminar on competition law and policy: National and Regional Experiences of Latin American and the Caribbean" (hosted by UNCTAD); "The Development Dimension of Competition Law and Policy: Economic Perspectives" (hosted by the ICN); "Fifth Annual ICN Conference" (hosted by ICN); "6th Global Forum on Competition & Global Forum on Trade & Competition" (hosted by OECD); "American Bar Association Conference" (hosted by the American Bar Association); "Regional Conference on "New Opportunities for Caribbean Lawyers" (held in Barbados); and a

“Meeting to examine the proposal to establish the Eastern Caribbean Competition Commission (hosted by UNCTAD).

6.0 Legislative Processes

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

Extensive discussions have ensued in an effort to identify and put in place an appropriate structure. Contributors to such discussions have included the Legal Reform Department; the Attorney General's Chambers and MITEC, and based on those discussions Cabinet was presented with and has approved submissions prepared by the MITEC's attorney. Drafting instructions have been issued to the Office of the Chief Parliamentary Counsel. The Regulatory Impact Assessment Report also addresses the matter, but the submissions did not include any of the recommendations made in that Report.

7.0 Funding from International Agencies

7.1 International Development Research Centre (IDRC)

In May 2006, the IDRC's research grant of CAD\$46,000 was issued to the FTC for the purpose of conducting research into the competition-related issues in the pharmaceutical industry in Jamaica.

The research was completed in March 2007. The results and recommendations will be made available early in the new Financial Year.

7.2 Inter-American Development Bank (IDB)

The year 2006/2007 marked the second year of the three year IDB Project aimed at strengthening the technical capacity of the FTC and improving its Outreach capabilities, with the goal of enhancing competition in the Jamaican economy.

Some of the achievements during the year are:

1. Hiring of a Competition Law Consultant to provide specialized technical assistance, as well as 'classroom' and on-the-job training to improve the Staff's technical expertise. The Consultant completed four (4) of nine (9) scheduled visits. The framework for the Commission's Operational Manual for the investigation, analysis and enforcement of Competition Policy, is being developed. The Staff, Commissioners as well as the members of the Government of Jamaica Steering Committee for the Project are very pleased with

the progress of the consultancy, and indications are that our objective will be met. There is no doubt that the lessons and the practices being taught will strengthen the Staff's technical capacity thereby aiding the Commission in its enforcement processes and allowing for the effective handling of increasingly complex Competition issues. It is anticipated that as the CARICOM Single Market takes shape Competition enforcement will take on more significance at the regional level; and each domestic Competition authority needs to be properly equipped.

2. FTC Staff attendance at three (3) separate specialized international courses in Competition Law and Utility Regulation. In-house seminars to allow other members of Staff to benefit from the information acquired, were conducted; and copies of the literature from the Courses have been placed in the Commission's Library for future use by the Staff.
3. Acquisition of reference materials related to antitrust issues. The Project has assisted in the acquisition of sixteen (16) books on the relevant subject area and three (3) subscriptions to various Law Journals.
4. The hosting of the seventh Shirley Playfair Lecture and the Workshop for members of the Judiciary which were held in September 2006; as well as the hosting of the Seminar for sponsors and promoters of staged events.
5. Publication of the "*Competition Focus*" series of articles as well as the twelfth edition of "*Competition Matters*".
6. The purchase of an upgrade of the FTC's ACC PAC Accounting Package, to facilitate the dual currency accounting and financial aspects of the Project as well as improve the Commission's financial reporting requirements.

The following table provides a breakdown of the estimated Budget for the Project as well as the amount expended as at March 31, 2007.

(US\$)

Activities	MIF Contribution	Local Contribution	Total
Component I	229,000	69,300	298,300
Component II	40,000	16,000	56,000
Project Administration		45,000	45,000
Midterm and final evaluations	20,000		20,000
Audit	4,000		4,000
Contingencies	11,000	5,000	16,000
TOTAL PROJECT BUDGET	304,000	135,300	439,300
Amount Expended	76,257	45,540	121,797
Balance	227,743	89,760	317,503

8.0 Other Issues

During the review period, the Staff began the process of completing and closing all outstanding consumer cases and focusing more on competition cases. Such Competition complaints or those initiated by the Staff are automatically assigned to both a lawyer and an economist and any additional Officer deemed necessary to assist in the investigation. With continuous training in the area of Competition Law, specifically training geared towards litigation of Competition matters, the Staff will become more equipped to effectively handle the increasingly complex competition issues that arise.

The significant decrease in the numbers of consumer complaints received over the last two years is reflective of the Staff's effort in sensitizing the public about the role and primary focus of the FTC. The Staff is now better able to focus its efforts on dealing with Competition cases and can be more effective in this regard. It is expected also that the number of cases involving offences against Competition will steadily increase in the future.

As a result of the shift of focus from seeking individual redress in consumer cases to identifying the market implications of consumer related offences, the number of cases being transferred to the CAC has increased significantly. In an effort to manage these transfers more effectively and to establish clear criteria for transferring cases, it was agreed that a Memorandum of Understanding (MOU) with the CAC would be executed to outline the limits of our relationship. The MOU was drafted by the CAC; reviewed and adjusted by the FTC; and submitted to the CAC during the Financial Year. It is expected that it will be finalized during the 2007/2008 Financial Year.

9.0 Summary of Main Programmes for the 2007/2008 Financial Year

The Commission has established its prime goals as:

- Competition Advocacy; coordinating activities with other Government Agencies; and informing them about the role of the FTC; and how that role intersects with theirs, and how as public sector Agencies we can cooperate in monitoring the conduct of businesses in the economy.
- Improving the technical capacity of the Staff specifically in respect of Network Industries.
- Encouraging improvements in services provided to consumers by developing procedural guidelines for use in various sectors;
- Educating manufacturers and distributors on how to identify the various offences against competition.
- Influencing decisions by the Ministry of Foreign Affairs & Foreign Trade as it seeks to keep Jamaica's competition policy relevant, thereby contributing to the fine-tuning of Competition Law and Policy in CARICOM.

10. Strategic Focus for the Medium to Long Term

Strategic activities to be undertaken will include:

- (a) Monitoring the market by keeping abreast of developments so that investigations can be initiated in the absence of complaints;
- (b) Prosecuting breaches of the FCA in accordance with in-house rules and procedures;
- (c) Undertaking industry studies as resources allow, to determine competitiveness;
- (d) Participating in seminars, workshops and meetings with Government policy makers, various associations, the business community and educational institutions, with a view to achieving a wider level of understanding of the FCA and the FTC;
- (e) Facilitating the training of both the local and regional Judiciary.
- (f) Developing competencies in the investigation of cartel activities as well as Network industries;
- (g) Attending and participating in 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).;
- (h) Providing timely opinions to the Ministry of Foreign Affairs and Foreign Trade or various other ministries, on sundry matters;
- (i) Developing cooperation with other competition agencies, in particular those within the CARICOM region.

11.0 Budgetary Allocation

The following table summarises the budgetary figures for the Commission.

Budgetary Allocation (2004/05 – 2007/08)				
Object	2007/2008 Request (\$)	2006/2007 Actual (\$)	2005/2006 Actual (\$)	2004/2005 Actual (\$)
Compensation of Employees	40,755,000	35,569,405	34,470,691	32,078,091
Travel Expense & Subsistence	4,373,000	2,906,447	2,556,500	2,738,603
Rental Of Bldg., Machinery & Equip.	4,454,000	4,351,642	4,540,344	2,570,760
Public Utility Services	1,684,000	1,230,588	1,371,002	1,134,866
Purchase of other Goods & Services	2,220,000	3,465,437	3,665,158	2,927,184
Asset Purchases	100,000	249,381	298,676	199,399
Total	53,586,000	47,772,900	46,902,371	41,648,903

Phillip Paulwell
Minister
Ministry of Industry, Technology, Energy and Commerce
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