

FAIR TRADING COMMISSION

PERFORMANCE FOR FINANCIAL YEAR 2008/2009 AND FOCUS FOR FINANCIAL YEAR 2009/2010

1.0 PURPOSE OF REPORT

The purpose of this report is to inform Parliament and the public about the performance of the Fair Trading Commission (FTC) for the 2008/2009 Financial Year and its main focus for the 2009/2010 Financial Year.

2.0 ROLE AND FUNCTION

The FTC was established in 1993 to administer the Fair Competition Act (FCA), which provides for the maintenance and encouragement of competition in the conduct of trade and business and the provision of services in Jamaica, with a view to providing consumers with competitive prices and product choices.

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

- Carry out on its own initiative or at the request of any person such investigations or inquiries in relation to the conduct of business as will enable it to determine whether any enterprise is engaging in business practices which contravene the Act
- Carry out investigations that may be requested by the Minister or that it may consider necessary or desirable in connection with competition matters
- Advise the Minister on such matters relating to the operation of the Act, as it thinks fit or as may be requested by the Minister.

The FCA authorizes the Commission to obtain such information as it considers necessary to carry out the functions listed above; and makes it a criminal offense to fail to provide the Commission with information when requested to do so; or to obstruct an investigation by destroying evidence or by knowingly providing false or misleading information.

3.0 PRIORITY PROGRAMMES AND TARGETS

For the Financial Year 2008/2009, the Commission set the following programmes as its main priorities:

- Focus increasingly on competition complaints and investigating misleading advertising as an offence against competition, thereby encouraging improvements in services provided to consumers

- Prepare/disseminate advisories, opinions, guidelines; develop/execute media campaigns
- Organize seminars, workshops and meetings specifically with manufacturers and distributors on how to identify the various offences against competition
- Continue to collaborate with the telecommunications regulator, the Office of Utilities Regulation (OUR), as well as the Ministry of Mining & Telecommunications, to promote competition in the telecommunications industry
- Undertake industry studies where appropriate
- Participate in, and organize appropriate forums for policy makers within the public sector as well as the Judiciary, to strengthen their appreciation of competition issues in their decision and law making processes
- Lead discussions with the relevant interest groups on Merger Review
- Foster relationships with Government agencies, which have similar function as that of the FTC
- Improve our technical capacity especially in the area of network industries
- Assist the Ministry of Foreign Affairs & Foreign Trade as it seeks to address competition issues in domestic, regional and global trade
- Participate in the CARICOM efforts aimed at fine-tuning Competition Law & Policy in CARICOM.

4.0 HIGHLIGHTS OF PERFORMANCE/ACHIEVEMENTS FOR 2008/2009

4.1 Cases Received and Investigated

Over the period April 1, 2008 to March 31, 2009, a total of four hundred and ninety-seven (497) cases were investigated by the Commission with four hundred and eighty-nine (489) being completed and closed. This represents a resolution rate of 98.8%, compared to 38.1% (357 cases closed out of 937 investigated) in the previous Financial Year. Of note is that the Staff made significant efforts in closing dormant matters and matters which would be better handled by other Agencies.

A total of one hundred and sixty-four (164) new cases were received during the year under review. Of that number, one hundred (106) or 64.6% were classified as cases of 'Misleading Advertising' (MA). The majority of MA cases were made against the telecommunication providers (50 of 164) who continue to provide unclear and ambiguous information in relation to their goods and services. It is also important to note that of the number of new complaints, twenty (20) were classified as 'Offenses Against Competition', with the majority made against the major providers of telecommunication services. This underscores our need to continue to maintain oversight of that sector.

4.2 Court Matters

Bent/Speare Entertainment Limited

In December 2006 the Commission received two complaints, both alleging that in that same month the Respondent scheduled a concert titled 'Welcome to Jamrock' to be held on December 22, 2006 at the Constant Spring Football Field. The Respondent advertised that 'Advanced VIP' tickets were being sold for \$3,000 and VIP tickets would be sold at the gate for \$3,500. Both Informants alleged that, in fact Advanced VIP tickets were being sold for \$3,500. Following its investigations, the FTC issued a directive that Bent/Speare sell pre-sold tickets at the price advertised. Bent/Speare complied with the directive.

Recognizing that harm had been done, the FTC filed suit on February 7, 2007, for breach of Section 37 of the FCA in the Supreme Court; and on November 19, 2008, the Supreme Court of Jamaica issued a Consent Order. Under the Consent Order Bent/Speare Entertainment Limited has agreed to pay the FTC's costs amounting to approximately \$437,000 and to issue a Public Apology in the Daily Gleaner newspaper within sixty days of the date of the Order. In response to Bent/Speare advising that it was unable to fund the cost of the Public Apology, a matter was filed in the Court to have the Consent Order enforced.

Errol Bailey trading as Foundation Music Showcase

In January 2007, the Commission received thirty-five (35) complaints against Errol Bailey and, acting on the complaints, launched a preliminary examination into the matter. The allegations are that during the month of December 2006, Mr. Bailey advertised through various print and electronic media that several artistes would perform at a scheduled concert called 'Foundation Music Showcase'. The performers named included several locally based artistes as well as the internationally acclaimed artiste, Peabo Bryson. The concert was to be held at the Constant Spring Golf Club in St. Andrew on January 6, 2007.

Arising from said preliminary investigation Mr. Bailey was informed that his failure to deliver the artistes at the scheduled event as advertised was likely to be a breach of the FCA, that the matter would be pursued in the Court for its determination of whether that conduct amounted to a breach of the FCA. The case was heard by the Court on March 12, 2008, and on July 4, 2008, Judgement was handed down in favour of the FTC, finding the Respondent to be in breach of Section 37 of the FCA and imposing a fine of \$250,000.

4.3 Investigations relating to industry practices

COMPUTERS

- **Computer Malfunction**

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

assemblers/resellers 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, software viruses and worms, unstable power supply, dust, user error/misuse, infestation by ants, and exposure to high temperatures.

Having received information from the Department of Customs, the Companies Office of Jamaica, the main supplier of computer parts in the market as well as several retailers, the FTC concluded that (a) less brand name computers are being repaired relative to the number sold; (b) approximately 54% of 'cloned' or non-brand name computers sold are subsequently repaired; (c) parts are classified as either high-end or low-end as determined by its quality and are marketed as such; (d) the majority of complaints regarding defective computers contained low-end parts.

EDUCATION

- **Regulation of Overseas Tertiary Institutions in Jamaica**

This investigation continues and 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.

Food

- **Accuracy of Labels**

The FTC continues further investigations into this matter with the objective of preventing dissemination of unsubstantiated or otherwise deceptive claims about food. The investigation involves a coordinated effort with the Bureau of Standards Jamaica (BSJ), the Scientific Research Council (SRC) and the Ministry of Health (MOH).

Upon examination of the market for Whole Wheat Bread we found that a number of bakeries had been labeling their products as 'Whole Wheat' although their major component is not whole wheat. In some instances although the packaging is boldly labeled 'Whole Wheat', the fine print lists the major ingredients as baking flour, enriched flour or white flour. The FTC considered this practice as being potentially misleading; implored consumers to read all labels carefully and to examine the fine print; and warned Bakeries which had not been labeling their products accurately to curtail the practice immediately as the FTC would be conducting an investigation pursuant to Section 37 of the FCA.

Within a month of the release of our study on the market, the Bakers' Association of Jamaica (BAJ) advised the FTC that it had discussed the issue with the Bureau of Standards Jamaica (BSJ) in an emergency meeting, and it was agreed that over the upcoming six (6) months a standard for Whole Wheat Bread would be determined and implemented. The BAJ also advised that it had "reminded its members of the

existing bread standards and suggested that they use a 'crack and peel' label to correct the information on the existing packaging to prevent further deception".

The Commission continues to monitor the practices of firms in this regard, the ultimate aim being to facilitate the implementation of standards and regulations with regard to nutrition labeling and dietary health claims where there are none.

TRAVEL

- **Airline 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. The investigation, which has not been completed, is to determine whether airlines actually provide a reasonable number of seats when they offer special rates.

- **Information on Visa Requirements**

Previous research revealed that travel agents and airlines have no obligation to inform their customers about visa requirements of the countries to which they intend to travel before selling them airline tickets.

Following discussions with the Ministry of Foreign Affairs and Foreign Trade (MFAFT) and the Jamaica Association of Travel Agents (JATA) on the need to advise customers of visa requirements before purchase of tickets and the methods through which this can be done, the FTC provided the MFAFT, Ministry of National Security and the Immigration Department with a detailed list of our recommendations. The recommendations were:

- a. The MFAFT could create a website with the relevant information, which would be accessible by Travel Agents and the general public.
- b. The MFAFT could provide leaflets for distribution by Travel Agents, with a listing of the contact numbers for consulates in Jamaica and worldwide.
- c. Signs could be placed strategically in the Immigration Department informing the public of their obligations when traveling.
- d. Programmes could be produced by the Jamaica Information Service (JIS) advising the public of the need to seek information concerning visas before purchasing tickets and where to access such information.

We requested that the recommendations be implemented as early as possible.

- **Lost/Damaged Luggage Policy**

The Commission completed its assessment of the policies of airlines operating in Jamaica with respect to compensation for lost or damaged luggage. Airlines indicated that their customers are advised of their luggage policies through: postings at the airports, ticket-jacket disclosures, messages included in their electronic tickets

and via their websites. They also point to either the Warsaw or Montreal Conventions under which baggage liability is covered for international travel.

This was supported by the work of the International Association of Travel Agents (IATA) which advised that as an international trade association it provides services for its member airlines, which includes the publishing of resolutions and guidelines that help to ensure that the member airlines can operate solely, securely, efficiently and economically around the world.

They also indicated that information is made available to customers which encourages passengers to ensure full monetary protection of their baggage by obtaining private travel insurances to guard against lost or damage luggage.

PETROLEUM MARKET

- **Launch of E10 gasoline**

Shortly after the launch of E10 fuel by the Ministry of Energy, the FTC observed a practice by the petroleum marketing companies that could be deemed Misleading Advertising, and sought to correct this practice at an early stage. The practice centred on the listing of the prices of Regular 87 grade gasoline vis-à-vis E10 grade gasoline, on Display Boards.

To this end, we wrote to all petroleum marketing companies regarding the discrepancy on Display Boards at some Service Stations with respect to the prices of the newly introduced unleaded E10 gasoline. It was noticed that some locations were incorrectly describing E10 as Regular unleaded 87 on their display boards, such that the prices listed on the board was that of E10 even though it was described as “Unleaded 87”. The companies voiced their intention to make the necessary corrections to their display boards and to comply with our recommendation.

The FTC continues to monitor the petroleum market.

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 2008/2009 Financial Year the Commission met with several associations, companies and groups.

The 9th Annual Shirley Playfair Lecture, our flagship public education event, was held on September 10, 2008, and was attended by members of the Judiciary, representatives from other Government Ministries and Agencies, members of the business community, and the general public.

Mr. Joseph Krauss, attorney-at-law of the US Law firm Hogan & Hartson presented the lecture entitled “Adopting Merger Control Laws: Lessons Learned of Patience and Humility”. In summary, the lecture outlined the many important factors that

ought to be considered when deciding how best to implement merger review laws in a developing country such as ours. He highlighted the benefits of making such decisions as: (a) our being able to learn from the mistakes and difficulties encountered by other countries along the way; and (b) access to best practices and procedures that have been found to be most successful and least likely to impose unnecessary burdens on the private sector. He also warned that we should “avoid adopting laws that solve only short term problems to the detriment of long-term, sustainable policies that encourage business transactions that result in efficiencies, increased innovation, and societal advances.”

Mr. Krauss was interviewed on the Power 106 radio talk show hosted by Messrs. Ronnie Thwaites & Ralston Hyman as well as by Mr. Ian Boyne on the *Issues & Answers* programme. Other media exposure included the publication of articles on the area of Merger Review in the Daily Gleaner and news articles on the JIS website, and the airing of episodes in the *Under The Law* radio series.

FTC staff was interviewed on several radio and television programmes on various competition matters. This includes appearances on *Nationwide*, *Beyond the Headlines*, *Balancing Justice*, *Roots FM*.

The Staff participated in a conference hosted by Friedrich Ebert Stiftung entitled “Competition Law & Policy in a Small Island State”, where we delivered the feature presentation on Competition Law & Policy in Jamaica; as well as the 25th Commonwealth Law Conference, at which we presented a paper entitled “Regulation of Cross Border Financial Services Under GATS: Implications for Domestic Regulatory Autonomy”. In summary, the paper examined the General Agreement on Trade-in Services (GATS) from the standpoint of the extent of domestic regulatory freedom in regulating cross border financial services.

We also participated in the Read Across Jamaica campaign administered by the Jamaica Teachers Association; and in the Consumer Affairs Commission’s (CAC) annual Expo “Consumers in Action”. In regards to the Read Across Jamaica campaign, three of our Staff members read to students of the Mountain View Primary School, stories composed by officers of the FTC, which depicted in a simple and humorous style, the role of the FTC and competition law in the market place. At the CAC expo the Executive Director made a presentation entitled “The FTC and the CAC - working together” and was interviewed on the radio talk show “At Your Service”, while the Staff fielded questions and issued brochures on the work of the FTC throughout the day.

In July 2008, the FTC completed its publication of its first edition of *Competition Focus for Children*, a booklet targeted specifically at children at the primary/preparatory school level. It comprises three (3) stories and two puzzles; and it is our hope that it will help to build in the children, a necessary awareness of the value of competition to every consumer. The booklet was distributed to 300 primary and preparatory schools islandwide.

The FTC continued to air episodes of the educational radio programme, “Under the Law”. Those episodes were broadcast four times a day during the months of June, July and August 2008, on Power 106 FM and Kool 97 FM.

The 13th edition, the December 2008 issue of the Commission’s annual newsletter was published and circulated to approximately 900 persons, both local and overseas. The theme, *When Signals Collide*, is a 36 page magazine comprising features on the FTC and articles from the Staff and several Government Agencies including the Consumer Affairs Commission, Financial Services Commission, Office of Utilities Regulation, Jamaica Intellectual Property Office, as well as the Ministry of Agriculture and the Barbados Fair Trading Commission.

4.5 Competition Advocacy

Our advocacy efforts took various forms with several policy makers and Government Departments. Among them were:

- Meeting with the Broadcasting Commission where several aspects of the cable service provider industry were discussed, within the context of our shared responsibilities in maintaining competition and acceptable performance standards in that industry.
- Participation in a WTO funded training course in Regional Trade Policy at the Mona campus of the UWI, at which the Executive Director presented the local perspective on competition law and competition implementation. The course was attended by representatives of Government bodies around the region including Cuba.
- Participation in meetings of the Energy Policy Resource Panel, which discussed the feedback/comments/ideas from persons who participated in the islandwide sensitization meetings which were held early in 2008. The FTC was a member of the sensitization team which met with civil society in several meetings throughout the island, to hear person’s views on the new energy policy.
- Participation in several meetings of a Steering Committee of the Ministry of Tourism whose objective is to oversee the drafting of the Timeshare Legislation for Jamaica. Discussions and comments have centred on the framework for the proposed Timeshare legislation, and the relationship with Consumer protection and Competition provisions.
- Participation in the development of a revised Telecommunications Policy. The FTC is a member of a team headed by the Ministry of Mining & Telecommunications (MMT) which has been working towards creating a new Telecommunications Policy which will be used to inform the new Telecommunications Act. The FTC has submitted its comments on the existing Policy and presented the MMT with our 2007 Study entitled “A Review of the Jamaican Telecommunications Sector” which provides useful information on Jamaica’s telecommunications landscape, since liberalization. The Study contains information which is useful to the review process.

- Participation in meetings with the MMT, Spectrum Management Authority, Broadcasting Commission, Jamaica Post, and Central Information Technology Office to discuss several issues involving the further development and expansion in the Telecommunications sector by the major players in that sector. Issues discussed included the general conduct of the players, allegations of anti-competitive activities between players, Determination of Dominance by the OUR, Interconnection rates, Number Portability, Co-location Agreements, and the Government's preparedness for the likelihood of mergers within the sector.
- Submission of an article entitled "Competition Law in Jamaica" to the Anti-Dumping & Subsidies Commission (ADSC), for publication in its December 2008 issue of its newsletter *Trade Gateway*. The article briefly described the role of competition law, and more particularly the FTC, within the context of a contemporary commercial environment.
- Participation in the Geographical Indications (GI) Working Group, a team whose objective it is to create the legal framework for protecting Geographical Indications in Jamaica, as well as sensitize manufacturers to their rights and responsibilities. The Jamaica Intellectual Property Office (JIPO) oversees the work of the Working Group.
- Submission of comments to the Office of the Prime Minister on the appropriate competition policy framework for the granting of license(s) for the use of Ports as sufferance wharves.

4.6 Economic Studies

- In light of the number of complaints received by the FTC with respect to the Subscriber Television Industry, the Staff carried out a study in order to get a better understanding of aspects of the operations of the industry, such as the (a) the responsibility of subscriber television operators with respect to cable boxes; (b) non-provision of cable services in some areas of assigned zones; and (c) provision of information by subscriber television operators with respect to changes in program offerings.

The conclusions from the study were that:

- a. Sufficient information is provided to actual and potential subscribers, who were informed at the time of application of service whether cable boxes are leased, rented or sold. Some operators provide contracts regarding the provision of cable boxes.
- b. While the Broadcasting Commission provides relevant information on the channels that cable operators are authorized to air, it may be necessary for the operators to provide that information to potential subscribers at the time of contract to ensure that consumers acquire cable services which are most suitable to their tastes.
- c. The information collected did not reveal any concerns with respect to possible market sharing within zones.

- d. The provision of cable services in some communities appear to be encumbered by the reputation of those communities regarding their failure to pay for utilities such as electricity and water.
- The functioning of the remittance services industry is of immense importance to Jamaica given the fact that the industry is our main source of foreign exchange, generating some J\$961.8 million in 2005. Having observed certain practices in the markets for electronic money transmission and cambio services, the FTC undertook an investigation into the tying of cambio services with the provision of remittance services. In other words, the FTC undertook to investigate the practice whereby recipients of remittance are forced to convert the foreign currency received to local currency using the facility of the remittance company.

To the extent that the relevant geographic market is defined to be the world, no firm could have sufficient market power in the relevant market and as such would be unlikely to be found to be dominant, as contemplated under the Fair Competition Act. Consequently, it is unlikely that the practice of tying cambio services to inbound remittance transfers could substantially lessen competition in the relevant market.

With respect to the tying of cambio services to outbound remittance transfers, the investigation revealed that this 'new' strategy of remittance companies posed a clear and significant threat to competition in the cambio services market and therefore should be investigated further either as an abuse of dominance or as an instance of coordinated activities among rival remittance firms (cartel). It is noteworthy however, that this 'new' strategy was discontinued in May 2008, after the start of our investigation. Therefore, the investigation was terminated.

- Upon the Minister's directive, the FTC commenced a study on the asymmetric price transmission mechanisms in the markets for basic food items distributed in Jamaica. It is expected that the study will be completed by April 15, 2009.
- The Minister also directed that the Staff commence research on the cement industry, specifically, to quantify the effects of having several suppliers of cement in the Jamaican market over the past three years, as against having a sole supplier. A simple but powerful economic model was utilized to characterize the main features of the Jamaican cement Industry; and to isolate the effect of changes in import tariffs/duties on the domestic price of cement. The research revealed that as a direct result of the Government waiving the safeguard measures in March 2006, the monopoly producer Caribbean Cement Company Limited (CCCL), generated approximately \$694 million less revenue because competitive forces constrained CCCL's ability to profitably increase the domestic price of cement. Price levels were estimated to be, on average, 3 percent lower than what they likely would have been had the measures not been waived. As such, consumers benefited from the policy in the sense that their expenditure on cement purchased from the CCCL was \$694.27 million lower than what it otherwise would have been.
- Our work also included a review of the Agreement relating to the acquisition of Blue Cross of Jamaica Limited's Health Insurance portfolio by Sagicor Jamaica

Limited. Our interest lies in whether issues with respect to competition were properly considered. With respect to agreements generally, the FTC's mandate authorizes us to examine agreements including those that have exclusionary provisions or provisions limiting or restricting the supply of goods or services. It also authorizes us to determine whether an agreement has as its purpose or effect, or is likely to have the effect, of substantial lessening of competition in a market.

- FTC Staff completed an assessment of the level of subsidy associated with the importation and distribution of fertilizer by the Government of Jamaica; and conducted an evaluation of a proposal by the sole local fertilizer manufacturer, for the supply of four blends of fertilizer to the Government. We submitted to the MIIC, the most suitable formula to be used for determining the expected fluctuation in prices associated with changes in input prices; and the level of subsidy necessary to support the fertilizer importation programme.
- In addition to participating in on-going consultations with the OUR on various telecommunications issues, the FTC continued to participate in meetings of the ICT Cabinet Sub-committee as well as the consultation process on the Telecommunications Policy.

5.0 PARTICIPATION IN DEVELOPMENT OF TRADE POLICIES AS WELL AS DISCUSSIONS ON THE INTERNATIONAL LEVEL

- During the review year the FTC provided support and guidance to the recently formed CARICOM Competition Commission, which was launched on January 18, 2008. This includes information on effective systems for the recording and storing of information/data; the creation of manual and electronic case files; the development of a Library system in both electronic and hard copy formats; useful activities for developing the technical capacity of the Commission; and organizational and other administrative and human resource related procedures.
- The FTC facilitated a mission of the CSME Unit of the CARICOM Secretariat; the aim of the mission being to mobilize and train a group of twenty (20) University students from Dominica, on identifying and developing a response to CSME opportunities. The Staff discussed among other things, the role of the FTC in the context of the CSME; cross border competition issues; the level of expertise, training and personal development required within the area of Competition Law & Policy; job opportunities within the field as an agent of a Competition Agency as well as an officer of the private sector.
- With respect to the Negotiations for a Canada-CARICOM Trade & Development Agreement being handled by the Ministry of Foreign Affairs & Foreign Trade, the FTC submitted comments on the sections of the Revised Draft Negotiating Brief and Attachments that deal with Competition Policy.
- Upon the request of the Minister of Energy the FTC participated in a study tour by a delegation of the Tanzanian Government whose main objective was to hear Jamaica's experiences in the handling of the several issues within the Energy

portfolio and to discuss best practices. Our contribution centred on our research in the petroleum market and our work as a member of the team which developed the existing Energy Policy. We also highlighted the role which we ought to play in the market for generation, transmission and distribution of electricity, and noted our exemption by Ministerial Order, from investigating activities of the Jamaica Public Service Company Limited, which in effect, prevents us from examining competition issues in that sector.

- We also met with a Nigerian delegation who met with several agencies to discuss matters related to governance, to obtain suggestions and recommendations as to best practices with respect to the enforcement of various laws. Our discussions centred on procedures, guidelines, jurisdiction and penalties or fines that may be applied in particular circumstances.
- In addition, the FTC participated in, and or made presentations at, international seminars/workshops hosted by the CARICOM Secretariat, International Competition Network (ICN), and the Organization for Economic Co-operation and Development (OECD). Our work included sharing our experience in handling matters involving Tying and Bundled Discounting and Single Product Loyalty Discounts; as well as conducting Market Studies.
- The FTC submitted a paper to the OECD on the Challenges Faced by Young Competition Agencies. The paper was presented by the Executive Director, and was discussed in the OECD's Global Forum on Competition in February 2009. It described many of the experiences, including challenges, successes and difficulties of the FTC over the years, specifically with respect to (a) organizing the Agency in its embryonic stage; (b) building a competition culture within Jamaica; (c) Competition Advocacy efforts over the years; (d) conduct of cases and investigations; (e) Jamaica's judicial system and our interaction with the Judiciary; (f) resource constraints; (g) funding from external bodies; and (h) building technical capacity.
- FTC Staff also attended and participated in the International Competition Network (ICN) Seminar on Competition Agency Effectiveness. The main aim of the Seminar was to allow for the exchange of best practices on all crucial aspects of overall Agency effectiveness with a view to facilitating improvements in the work processes of Agencies. It provided us with the opportunity to hear the manner in which other Agencies have handled several of the challenges which we have been facing; expose us to challenges that we have yet to face and options to deal with these challenges; and to hear best practices. The Executive Director moderated a session on Accountability and Communication.

6.0 LEGISLATIVE PROCESSES

There are 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.

The draft Bill containing the relevant proposals for amending the FCA which was issued by the Chief Parliamentary Council (CPC) and perused by the FTC during the 2007/2008 Financial Year has yet to be completed. Comments were forwarded to the CPC through the Ministry of Industry Investment & Commerce (MIIC) and a second version of the draft Bill is being awaited. The structure supported by the MIIC and the Attorney General's Chambers provides for the establishment of a Competition Tribunal to hear competition cases.

In the mean time, with the assistance of an overseas Consultant which was hired under the Inter-American Development Bank (IDB) Project, we explored options for the optimal structure of the FCA, identified gaps and potential weaknesses in the FCA and evaluated the individual provisions of the current draft Bill. The Consultant also provided explanatory notes for the various decisions taken, in terms of the provisions being adopted and the structure of the FTC being contemplated. Together with the explanatory notes the draft will be submitted to the MIIC and the CPC at the appropriate time.

7.0 FUNDING FROM INTERNATIONAL AGENCIES

7.1 Inter-American Development Bank (IDB)

The three (3) year IDB Project aimed at strengthening the technical capacity of the FTC and improving its outreach capabilities continued during the Financial Year. In April 2008, following a review of the Project's objectives, achievements and financial status, the IDB, having considered it to be one of the best managed Projects in terms of cost effectiveness and reporting, agreed to extend the Project life to allow the Commission to identify additional activities to utilize the approximately US\$59,000 which had been 'saved' over time. The Project is funded through the IDB Multilateral Investment Fund (MIF) and counterpart contributions from the Government of Jamaica.

Some of the project achievements and activities, facilitated through the Project during the year under review are:

- Provision of specialized technical assistance/on-the-job training in competition law as well as in network industries in particular
- Completion of the Commission's operational manual for the investigation, analysis and enforcement of competition policy is at an advanced stage
- Development of a re-draft of the Fair Competition Act (FCA)
- FTC participation in two (2) separate specialized international courses in competition law. In-house seminars conducted and copies of the literature from the courses placed in the Commission's library for future use by staff
- Completion of the upgrade of the Commission's customized Database & Workflow Management Systems (CIMS) which houses the Commission's

data and case information in an electronic format; as well as the upgrade of our network environment.

- Hosting of the ninth Shirley Playfair Lecture held in September 2008, as well as the promotional activity leading up to it, which included several episodes in the *Under the Law* radio series and the publication of several *Competition Focus* newspaper articles.
- Publication of the December 2008 edition of the Annual Newsletter *Competition Matters*.
- Production of a 30-minute audio visual documentary on the Project, which depicts the objective, scope and outcomes of the Project and highlights all the activities covered under the Project.

Of special note are the final reports of the Consultants that were hired to provide specialized training to the Staff. The reports included an evaluation of the efficiencies, deficiencies and competencies of the FTC staff as well as recommendations for further development of the Staff and the Commission. In summary, the Commission is pleased with the Consultancy, and with the improvements made by the Staff over the past three years.

7.2 Private Sector Development Programme (PSDP)

In May 2007, the FTC entered into a grant contract with Jamaica Trade & Invest (JAMPRO/JTI), for several activities aimed at strengthening the technical capacity of the Commission. The Project, which lasted one year, was valued at J\$4,802,461 and was funded by the European Union (EU) through the Private Sector Development Programme (PSDP) and the Government of Jamaica on a 75%:25% split.

The activities that were undertaken and completed are:

- Attendance by two (2) staff members and a Commissioner at three (3) competition law conferences or workshops;
- Acquisition of desk top computers, a multimedia projector, two lap top computers, and a printer; and
- Publication of the 2007 edition of *Competition Matters* and a brochure.

8.0 SUMMARY OF MAIN PROGRAMMES FOR THE 2009/2010 FINANCIAL YEAR

The Commission's goals for the 2009/2010 Financial Year are:

- Increased emphases on anticompetitive matters; increased enforcement of the FCA through the Courts.
- Collaborating towards finalizing the amendments to the FCA.
- Increased competition advocacy; coordinating activities with other Government agencies, and informing them about the role of the FTC and how that role intersects with theirs.

- Further training of the Judiciary.
- 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 potential 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.

9.0 BUDGETARY ALLOCATION

The following table summarises the actual amounts expended by the Commission in each of the three (3) previous Financial Years. Also included is the Budgetary Request for the 2009/2010 Financial Year.

Object	2009/2010 Request (\$)	2008/2009 Actual (\$)	2007/2008 Actual (\$)	2006/2007 Actual (\$)
Compensation of Employees	58,069,226	49,124,006	45,326,100	35,569,405
Travel Expense & Subsistence	6,704,100	5,293,878	4,425,170	2,906,447
Rental Of Bldg., Machinery & Equip.	5,965,590	4,630,470	4,551,824	4,351,642
Public Utility Services	1,932,000	1,848,598	1,580,604	1,230,588
Purchase of other Goods & Services	3,026,311	2,805,038	1,895,133	3,465,437
Asset Purchases	360,100	278,610		249,381
Total	76,057,327	63,980,600	57,778,831	47,772,900

April 16, 2009