



## **The FTC and the CAC - working together for the benefit of the Consumer**

**November 28, 2008**

I am pretty sure that many of us here have heard the term “CONSUMER IS KING”. And my interpretation of the term is that, generally speaking, as consumers we have rights, we have choices, and the money in our pockets gives us the right to choose what we want to purchase, and when to spend it.

It is important that us as consumers recognize the role that both the Consumer Affairs Commission (CAC) and the Fair Trading Commission (FTC) play within our economy. The statutes that govern the operations of both organizations speak to protection of the consumer, i.e, each statute, the Consumer Protection Act (CPA) and Fair Competition Act (FCA) contain provisions aimed at protecting consumers from conduct which may ‘harm’ them and ultimately reduce consumer welfare. In the case of the CAC conduct of this nature are often times referred to as being ‘unfair’ and in the case of the FTC, they are referred to as being anti-competitive. Competition is not necessarily about what is ‘fair’ – who decides what ‘fair’ is? Should you decide or should I decide? There must be some objective, transparent, acceptable criteria to determine ‘fairness’. Examples of what is considered ‘unfair’ conduct under the FCA include double ticketing, sale above advertised price, and some aspects of Misleading Advertising.

Up until recently, about 2 ½ years ago, the FTC served as a watchdog for such types of conduct, but with the passing of the Consumer Protection Act, which gave the CAC legal grounds and powers,

the FTC shifted its focus to investigating competition matters, or conduct which are likely to lessen competition. Examples include tied selling, abuse of dominance, predatory pricing, bait and switch and collusion. We have therefore shifted our mode of investigations from seeking redress for individual complainants (informants), to examining the nature, composition, players and functioning of specific sectors with a view to determining whether anti-competitive activity exists in these sectors. A few of the sectors which we have examined in recent times are the market for alcoholic beverages, the motor vehicle petrol market, the pharmaceutical sector, and the telecommunications sector.

Our work involves the constant monitoring of markets, such as the telecommunications and furniture and appliances sectors, taking particular interest in the advertising efforts by the relevant players. Over the years there have been many instances of Misleading Advertising advertisements and we therefore keep a close eye on the advertising strategy of firms within these sectors; our goal being to stop those advertisements that are likely to mislead the reasonable consumer. On occasions we have urged players to pull advertisements shortly after first airing or publication, thereby limiting the quantum of consumers that were likely to be led into making decisions and spending their money in ways that were not entirely to their benefit.

Although our focus has shifted, we continue to work closely with our sister Agency, the CAC, as our functions often times overlap. Not only do we look to each other for information or data on specific sectors we also rely on each others expertise and experiences from time to time to inform our investigations. Our collaborative efforts have yielded good results as evidenced by our work on the pharmaceutical and motor vehicle sectors; and in assisting each other in obtaining redress in what must be several thousand complaints over the years.

That is our responsibility – to ensure the ‘proper’ running of the market, to reduce the incidences of anti-competitive activity which will result in changes in market behaviour, thereby reducing the likelihood of aggrieved consumers having to come to the CAC to seek redress after harm has been done.

We are both committed to supporting each others initiatives and roles as watchdogs of the Jamaican people; and to provide for the maintenance and encouragement of competition in the conduct of trade, business and in the supply of services. After all, the CONSUMER IS KING!

David Miller  
**EXECUTIVE DIRECTOR**

Consumer Affairs Commission’s Consumers in Action Day  
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