



FTCNewsLine is a quarterly newsletter of the **FAIR TRADING COMMISSION** that contains information on competition matters dealt with by the Fair Trading Commission as well as other competition agencies from around the world. The aim is to provide readers with insights into some of the matters that are prosecuted in other jurisdictions; and to assist businesses and consumers in better identifying issues that may pose competition concerns.

Competition legislation is specific to each jurisdiction and activities that are prohibited in one jurisdiction are not necessarily prohibited in other jurisdictions. For information on the prohibitions under the Jamaica' s competition legislation, the **FAIR COMPETITION ACT (FCA)**, please visit our website at www.jftc.gov.jm.

In this Issue we feature issues related to the period January 1, 2018 to March 31, 2018.

FTC participates in Caribbean Advertising and Marketing Law Seminar

In March 2018, the Executive Director of the FTC, Mr. David Miller participated in the first Caribbean Advertising and Marketing Law Seminar hosted by Foga Daley, Attorneys-at-law. The seminar explored the impact of social media and the Internet on the legislation and regulations in the Caribbean as they relate to the advertising industry.

Mr. Miller in his presentation, highlighted two important aspects of the Fair Competition Act (FCA) relating to advertising: disclosure requirements and the provision of material information to consumers. Over the years, the FTC has worked with the business community and has provided guidelines on the minimum requirements for advertisements; the proper use of "conditions apply" and various font sizes in print advertisements; the meaning and the use of the term "disclosure of all material information" ; and using clear and unambiguous language when describing products or services.

Regarding social media, Mr. Miller indicated that the FCA extends to advertisements in social media and the FTC uses information from other jurisdictions to guide it dealing with matters relating to the digital world. While new issues will arise as technology develops, the FTC is committed to ensuring that businesses compete in an environment free of deceptive and unfair practices and consumers benefit from high quality products and competitive prices.

FTC completes investigation into tourism sector

Upon a request from the Ministry of Tourism (MOT), the FTC reviewed an allegation that local Destination Management Companies (DMCs) were being marginalized by the integration of overseas DMCs in the market for tour services in Jamaica.

Prior to entering the market, the overseas DMCs contracted Jamaican based DMCs to offer tour services to their clients visiting Jamaica and over time local DMCs secured a significant portion of customers through this relationship with overseas DMCs. The terms of the contract changed significantly, however, when the overseas DMCs began to offer tour services in Jamaica directly to their clients. In particular, the overseas DMCs required only ground transportation service from local DMCs and demanded the service at rates many DMCs believed to be unsustainably low. Accordingly, the integration of overseas DMCs' in the local tour services market was alleged to be anticompetitive because it was diverting revenues from local DMCs.

The FTC concluded that the challenged conduct did not breach the FCA. It noted, however, that the market for ground transportation services to tourist destinations is subject to significant buyer power on the part of overseas DMC's. Consequently, without intervention, the local DMCs are likely to exit this market in the foreseeable future, unless they implement a strategy to secure customers independently of the integrated overseas DMCs.

The FTC was also asked for its view on whether the competition provisions in the CARIFORUM-EU Economic Partnership Agreement are relevant to the alleged conduct. On this issue, the FTC took the view that although Article 111 of the Agreement is entitled "prevention of anticompetitive practices", it does not impose any direct prohibition or obligation against the alleged conduct that could be actionable in Jamaican law.

Complaints investigated during Financial Year 2017/2018

Over the period April 1, 2017 to March 31, 2018, the FTC investigated 243 allegations for breaches of the FCA. This included 125 cases that remained unresolved at the end of the previous Financial Year; and 118 cases that were received during the period. During the period, 148 cases were resolved.

Of the 243 cases investigated, 129 concerned misleading advertising; 73 concerned requests for information/opinion; there were 33 offences against competition; and two tied selling (see graph below). Six complaints were considered as being outside the purview of the Fair Competition Act and were therefore referred to relevant agencies for consumer redress.

