



FTCNewsLine is an on-line 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 October 1, 2018 to December 31, 2018.

New entity to undertake the functions of the FTC and CAC

By way of Cabinet decision in June 2018, approval was granted for a new entity to be created, that will carry out the functions of both the FTC and the Consumer Affairs Commission (CAC). At present, the FTC is Jamaica's competition agency which includes both competition policy and consumer protection issues; while the CAC has oversight of consumer protection matters. This is a part of the Government's public sector transformation programme where emphasis is placed on combining entities with similar functions to achieve more effective service delivery. The process to combine the two Agencies will be undertaken in 2019.

FTC engages graduate students

As part of the FTC's 25th anniversary, the Staff presented three guest lectures at the University of the West Indies (UWI) and the University of Technology (UTech) in October 2018.

Dr. Kevin Harriott, Competition Bureau Chief, presented at UTech's College of Business and Management and at the Department of Economics (UWI). Both presentations focused on the economic principles underlying competition law. He engaged graduate students in areas ranging from consumer behaviour, preferences and demand to the behaviour of firms as they strive to maximize profits through competing for consumers' attention; and the reliance of economic tools when assessing public policy. Issues such as the social benefits of price discrimination and protection as well as the benefits to be derived from competition generated much discussion.

The third presentation was held at the Faculty of Law, UWI. Under the topic 'Demystifying Misleading Advertising under the Fair Competition Act (FCA)', Mr. Marc Jones, Legal Officer engaged an audience of attorneys, academics and students in a discussion on the nuisances and finer points of the elements of section 37 of the FCA which deals with misleading representation. In exploring the area, Mr. Jones indicated that 'silence' could in some jurisdictions constitute a

representation to the public; but that in Jamaica, based on precedents, an explicit statement may be needed for there to be a determination of a representation.

The FTC plans to continue collaborating with educational institutions to strengthen the competition culture in Jamaica.

FTC Staff participates in international conferences

Mr. David Miller, Executive Director participated in the WTO workshop on Government Procurement and Governance in November 2018. The theme was “*Promoting Good Governance in Public Procurement Markets: Competition and Enforcement Dimensions and the Role and Relevance of the Revised WTO Agreement on Government Procurement (GPA)*”. The key takeaway from the conference is that several aspects of Government procurement policy can be strengthened through the use of competition policy tools; with the end result being increased transparency, accountability and a more competitive environment in the relevant markets. The FTC will seek to collaborate with Jamaica’s procurement entities & the oversight bodies, to educate entities on their respective roles and functions so that the benefits that are possible, and which have been experienced in many jurisdictions, may be realized.

Mr. Desroy Reid, Competition Analyst, participated in the VIII Annual SELA Meeting in Brazil in October 2018. The meeting focused on the importance and impact of maritime transport, infrastructure and port services on trade and competition. The following areas were discussed: (i) competitiveness & management of ports; (ii) anticompetitive practices in the sector; (iii) control of concentrations in the sector; and (iv) challenges faced by Latin American and Caribbean countries in the fields of competition and regulation. Information from the conference will inform the FTC’s market study on port services.

Complaints investigated during 2018

Over the period January 1 2018 to December 31, 2018, the FTC investigated 149 complaints for breaches of the FCA. This comprises 109 cases that were unresolved at the end of 2017 and 40 cases which were received during 2018. The automobile and telecommunications sectors triggered the largest number of complaints with Informants alleging misleading advertising as it relates to price or features of products or services. For instance, a complaint in the automobile sector concerned the failure of a dealer to honour the terms of a cash back promotion with the purchase of a particular model vehicle. The Staff intervened and the Informant received the full benefit of the promotion. Between January 1, 2018 and December 31, 2018, 47 cases were resolved.

Of the 149 cases, 113 are classified as matters concerning misleading advertising; 27 as offences against competition; six as request for opinion; and one as tied selling. Two complaints were considered as being outside the purview of the FCA; and, where appropriate, were forwarded to other agencies.