



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 special Issue we feature competition matters arising from COVID-19.

FTC's response to COVID-19

In the first quarter of 2020, countries across the world have been affected by a global pandemic in the form of the novel coronavirus (COVID-19). This health crisis has resulted in changes in the administration, enforcement and advocacy activities of competition authorities.

The Fair Trading Commission has adopted four key actions from the United Nations Conference on Trade and Development (UNCTAD) to protect competition in the market during COVID-19:

- Ensuring equitable conditions between companies for a level playing field;
- Temporarily allowing cooperation arrangements necessary for the supply and distribution of products to prevent shortage of essential products;
- Adapting competition procedures and deadlines to the extraordinary circumstances created by the pandemic; and
- Enforcing competition law against companies that take advantage of the crisis by abusing market power or creating cartels.

While the FTC will allow coordination between competitors during the pandemic, the measures taken should be necessary to ensure the security of supply; clearly in the public interest; contribute to the benefit of consumers; deal with critical issues that arise from COVID-19 and last no longer than is necessary. Price fixing is not included in the coordination arrangements referred to above and the FTC remains vigilant in discouraging such practice.

The FTC has responded to the COVID-19 pandemic with adjustments in its focus as well as in operations. Complaints that are likely to emerge include issues relating to:

- Online purchases and payments. For example, purchasers having to 'opt-out' of additional or future services after making 'one time' purchase or payment;
- Claims about the efficacy of products. For example, a product may claim to cure the Coronavirus; and

- Connectivity and internet speed. With the level of work-from-home increasing significantly, users are likely to experience unstable connections and/or reduced speed.

The FTC's handling of its work-load remains robust as its Staff has adapted work-from-home and online meetings protocols.

Other Competition Authorities' Response to COVID-19

Several notable activities of other competition authorities to protect the business environment and consumers are described below.

In the United Kingdom, the Competition Markets Authority (CMA) established a COVID-19 task force that has (i) warned merchants suspected of exploiting the health crisis through unjustifiable prices or misleading claims; (ii) taken enforcement action if there is evidence that merchants may have breached competition or consumer protection law and they fail to heed warnings; (iii) advised the government to ensure that competition law does not hinder legitimate measures that protect public health and support the supply of essential goods and services; and (iv) refrained from taking competition law enforcement action against cooperation efforts among merchants to ensure the supply and fair distribution of scarce products/services affected by the crisis.

Similar to the CMA, the Australian Competition and Consumer Commission (ACCC) established a task force to respond to COVID-19 related matters including educating businesses about their obligations concerning cancellations, suspension of services and refunds as a result of COVID-19, and raising awareness of scams as scammers typically prey on the vulnerabilities of consumers during a crisis.

The ACCC has granted interim authorizations to several enterprises. For example, Banks were granted authorization to work together to implement a small business relief package to allow for the deferral of loan repayment for small businesses impacted by COVID-19 for six months. To qualify, the businesses must have less than three million dollars in total debt owed to the creditors. Similarly, Telecommunication providers were granted authorization to coordinate strategies to manage congestion and take steps to address significant demand changes caused by COVID-19.

Authorizations provide statutory protection from court action for conduct that might otherwise raise competition concerns.

Global Cases/Complaints Arising from COVID-19

Competition authorities around the globe have also encountered issues and cases directly related to the COVID-19 pandemic such as scams, exploitative pricing and deceptive advertising.

United Kingdom

In the UK, the CMA received complaints of unjustifiably high prices and misleading claims about goods in the pharmaceutical and food and drink industries. In response, the CMA wrote an

open letter warning merchants to desist from the practice and advised them to indicate whether price increases were from wholesalers or suppliers.

Australia

In Australia, there were complaints of scams including people receiving misinformation about cures for COVID-19, investment scams claiming the pandemic created opportunities to make money, and online stores purportedly selling products such as face masks and not providing the goods.

United States of America (USA)

One competition authority in the USA also reported complaints with online shopping, mobile texting scams and government/business imposter scams. Similar to the UK, the USA had complaints regarding unsupported claims that products could treat or prevent COVID-19. Warning letters regarding unapproved and misbranded products with deceptive claims about their ability to treat or cure COVID-19 were issued to the companies involved.

Dominican Republic

The Dominican Republic competition authority warned businesses that it would be monitoring suppliers of essential goods and services for exploitative or collusive practices.

Korea

In Korea, the competition authority took action against 45 businesses for misleadingly advertising that their products could prevent Coronavirus. The competition authority also established consumer counselling call centres for COVID-19 specific complaints.

The FTC's Commitment to Consumers in Jamaica

These and similar practices in Jamaica could threaten competition and expose consumers to substantial harm; as such, the FTC remains vigilant in its approach to detect and prosecute, if not discourage, anticompetitive practices.