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**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](http://www.jftc.gov.jm).

*In this Issue we feature issues related to the period April 1, 2020 to June 30, 2020.*

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## FTC assessed competitive effect of DHL's broker turnover fee

In June 2020, the FTC completed its assessment, under sections 19-21 of the Fair Competition Act (FCA), into the competitive effect of a broker turnover fee imposed by DHL Jamaica Limited on its competitors in the market for broker services. The FTC concluded that the imposition of such a fee could amount to a substantial lessening of competition, in breach of sections 19-21 of the FCA which prohibit the abuse of a dominant position.

The broker turnover fee of USD25.00 was implemented in 2019 and was imposed only on customers of DHL's freight forwarding services who used third party customs brokers at the ports of entry in Jamaica. These third parties compete directly with DHL for customs brokerage and last mile delivery services. DHL voluntarily withdrew the fee and subsequently requested an opinion from the FTC as to whether the implementation of such a fee would contravene the FCA.

The information reviewed by the FTC is consistent with the theory that the implementation of the fee constitutes rent-seeking behaviour on the part of DHL. Essentially by using its dominant position in the freight forwarding market, DHL extracted surplus from competing customs brokers thereby creating a disincentive for importers to choose rival customs brokers. In particular, the FTC found that DHL held a position of considerable economic strength in the market for freight forwarding services to Jamaica. The fee, therefore, is likely to have the effect of substantially lessening competition in the market for customs brokerage services in Jamaica by diverting revenues from rival customs brokers and/or raising rivals' costs in the market for customs brokerage; and increasing the price to access customs brokerage services or reducing the quality of customs brokerage services received by importers – the final consumers. Further, the FTC concluded that no demonstrable economic justification was established for implementing the fee.

## **FTC's study on the telecommunication market**

In May 2020 the FTC launched a study into the telecommunication sector at the request of the Spectrum Management Authority (SMA). The SMA is reviewing its Spectrum Cap Policy, a tool used to drive and safeguard competition in the telecommunications industry. This review is to determine whether the policy should continue, be changed or discontinued. The FTC is assessing the level of competition within the sector as it relates to spectrum allocation and will be making its recommendations. The study is scheduled to be completed in August 2020.

## **FTC signs MOU with Development Bank of Jamaica**

To strengthen its advocacy capacity, the FTC signed a Memorandum of Understanding (MOU) with the Development Bank of Jamaica in April 2020. The MOU will facilitate information sharing on Public-Private Partnership and Privatization Agreements, capacity building initiatives and policy development.

This MOU is the fourth that the FTC has signed with other government agencies in the past six months. The FTC is in discussion with other agencies to sign MOU's and remains committed to collaborating with agencies to protect the competition process in Jamaica.

## **Jamaica joins CARICOM Competition Commission's COVID-19 Steering Committee**

In April 2020, the CARICOM Competition Commission formed a COVID-19 Steering Committee to formulate strategies and implement measures to address issues relating to competition and consumer welfare during the COVID-19 pandemic. The FTC along with competition and consumer protection authorities and Government departments that have responsibility for competition and consumer protection matters in the CARICOM Member States comprise this Steering Committee. The Steering Committee has agreed on an Action Plan that covers three pillars: monitoring product markets, competition and consumer advocacy, and enforcement action. Objectives of the Steering Committee include information sharing among the Member States and guiding business enterprises and consumers.

The FTC is the lead agency responsible for activities concerning competition and consumer advocacy. These activities, considered the most critical, include encouraging businesses and consumers to report misleading advertising, and excessive pricing; collaborating with sector regulators to ensure information and services are accessible to businesses and consumers; educating businesses and consumers on the importance of competition and consumer protection; and advising national Governments on policy and legislative measures to ensure that markets function well in the coming months. Another critical activity is the facilitating of communication by competent authorities and service providers with the public on issues such as the internet availability, education facilities, emergency services and essential goods and services.

## **FTC participates in international conference**

Mr. Desroy Reid, Competition Analyst, participated in a web conference on the health sector in June 2020 that was hosted by the Organisation for Economic Co-operation and Development Regional Centre for Competition in Latin America. The following areas were discussed: competition and regulation - specificities in the health sector and Latin America, bid-rigging in

the health sector, cartel enforcement in the health sector, healthcare mergers; and abuse of dominance in the pharmaceutical industry. In the segment on abuse of dominance, Mr. Reid presented on the FTC's 2019 investigation into the competitive effect of the public-private partnership agreement between Drug Serv and selected private pharmacies.

### **New office location**

The FTC relocated its office in April 2020 and is now located at Unit 42A at the New Kingston Business Centre, 30 Dominica Drive, Kingston 5. The FTC was previously located at 52-60 Grenada Crescent, Kingston 5 for 27 years.