FAIR TRADING COMMISSION

ANNUAL REPORT 2014/2015

Mission Statement

To provide for the maintenance & encouragement of competition in the conduct of trade, business and in the supply of services in Jamaica with a view to providing consumers with competitive prices and product choices.

FAIR TRADING COMMISSION 52-60 Grenada Crescent Kingston 5

July 4, 2019

The Honourable Audley Shaw Ministry of Industry, Commerce, Agriculture & Fisheries 4 Saint Lucia Avenue Kingston 5

Dear Minister:

In accordance with Section 14(1) of the Fair Competition Act, I have the honour of transmitting herein the Commission's Report for the Financial Year 2014/2015 and a copy of the Financial Statements of the Commission's Accounts as at March 31, 2015 duly certified by the Auditors.

Yours sincerely, **Derrick McKoy** Chairman

Members of the Commission 2019-2020

Dr. Derrick McKoy (Chairman)

Mr. Stuart Andrade

Mr. Robert Collie

Miss Dorothy Lightbourne

Mr. David Miller (Executive Director)

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FINANCIAL STATEMENTS

Executive Director's Overview

The 2014/2015 Financial Year was insightful and instructive in several respects. As competition policy practitioners the Commissioners and the Staff exposed itself to several sectors of the economy through our lens as overseers on the subject area. Work in aspects of the telecommunications, port services and energy sectors were at the forefront of our minds while interfacing with sector regulators, policy makers and Micro, Small and Medium-Sized Enterprises (MSMEs) throughout the year. From a policy perspective, the Commission continued to use Government of Jamaica's Corporate Governance Framework as its guide by studying, developing and then applying several aspects to day to day operations.

In the section entitled "Market studies for promotion of competition" we discuss work that demonstrates the value and benefits to consumers from having a competitive environment. This research includes quantifying the benefit to consumers arising from the reduction in termination rates for mobile telephone service as well as the impact of the reduction in global oil prices on local fuel prices in various geographical locations.

Competition advocacy or informing government policy continues to be a focal area. Energy plays an integral part in our economy and during the year the Staff examined the Jamaica Public Service Company's (JPS) proposed rate increase request that was submitted to the Office of Utilities Regulation (OUR); where the Staff provided an overview on the effect on consumers were an increase to be granted. We also described the competitive effect of a Fuel Supply Agreement which Petrojam, the state refinery, is a party to; and the extent to which the Agreement could adversely affect competition in the market for bunker fuel sold in the Kingston Harbour. The FTC also submitted its view that the regulatory environment for port services should be amended appropriately to address issues that are limiting competition and expansion in the port services sector.

Our public education campaign over the year was led by participation in the Mobile Business Clinic Initiative (MBCI) wherein we shared information on competition policy directly with MSMEs in several parishes. Contrastingly, we targeted attorneys, firms, competition law practitioners, economists, policymakers and regulators with our Intermediate level Course in Competition Law and Policy which was accredited by the General Legal Council. As we move towards creating a merger review regime for Jamaica the FTC articulated its views in a forum that discussed mergers and acquisitions within the telecoms industry.

The Staff continued to contribute actively to regional policy discussions through its work with CARICOM and its affiliated entities as well as with international developmental agencies such as the Organisation for Economic Cooperation & Development and the United Nations Conference for Trade & Development.

I commend the Staff for continuing to maintain their commitment to their job of exploring competition issues while at the same time keeping abreast of developments in competition policy; and I thank the Commissioners for integrating the Corporate Governance Framework in our everyday management.

Executive Director June 20, 2015

About us

The Fair Trading Commission (FTC) was established in 1993 to administer to administers the Fair Competition Act (FCA), which provides for the maintenance and encouragement of competition in the conduct of trade and business and in the provision of services in Jamaica, with a view to ensuring that markets are competitive and that consumers are provided with competitive prices and product choices.

Functions of the FTC

The functions of the FTC as set out in section 5 of the FCA are to:

- Carry out, on its own initiative or at the request of the Minister or any other person, investigations in relation to the conduct of business in Jamaica in connection with matters falling within the provisions of the FCA;
- Advise the Minister on matters relating to the operation of the FCA;
- Make available to businesses and consumers, general information with respect to their rights and obligations under the FCA;
- Cooperate with and assist any association in developing and promoting the observance of standards of conduct for the purpose of ensuring compliance with the FCA; and
- Undertake studies and publicize reports and information regarding matters affecting the interests of consumers.

The FCA contains two broad categories of prohibitions, those dealing with anti-competitive behaviour and those dealing with anti-consumer behaviour. Regarding anti-competitive behaviour, the FCA addresses abuse of a dominant position, agreements that substantially lessen competition, exclusive dealing, market restriction, resale price maintenance, tied selling, price fixing and bid rigging. Regarding anti-consumer behaviour, the FCA addresses misleading advertising, sale above advertised price, double ticketing and the unavailability of goods advertised at a bargain price.

For the purposes of its investigation, the FTC has the power to obtain any information that it considers necessary. Where the Court determines that the FCA has been breached, the Act allows for a fine of up to JA\$5 million in the case of an enterprise and up to JA\$1 million in the case of an individual.

Governance

The FTC, a portfolio agency of the Ministry of Industry, Investment and Commerce, is governed by a maximum of five Commissioners, who are appointed by the Minister. The Executive Director is an ex-officio Commissioner, who is by appointed the Commissioners. During the Year 2014/2015, the FTC was governed by four Commissioners, who were appointed in June 2012, and the Executive Director.

The Commissioners

Mr. Christopher Samuda (Chairman)

Mr. Samuda, an Attorney-at-Law, holds a Bachelor of Laws Degree with Upper Second Class Honours, from the University of the West Indies and a Certificate of Legal Education from the Norman Manley Law School. He was admitted to the Jamaican Bar in 1986. He also served as the Chairman of the Board of Directors of the Creative Production & Training Centre Limited, the Board of Governors of the Media Technology Institute; and as President of the Jamaica Paralympics Association.

Ms. Michelle Brown, an Attorney-at-Law, was admitted to the Jamaican Bar in 1996. In addition to being an attorney, she has a MBA in International Business with special emphasis on International Economic Relations from the George Washington University in Washington DC and has worked as a management consultant in Washington D.C. She also has a Masters in Law and Economics from the World Trade Institute in Switzerland. She served also as a Commissioner of the Anti-Dumping and Subsidies Commission.

Ms. Dena Davis has over 20 years experience in the insurance industry and has received professional insurance training in Jamaica, United States of America and Canada where she studied the different distribution systems of insurance and their effects on client services.

Dr. Densil Williams was appointed Commissioner while serving as the Deputy Executive Director of the Mona School of Business and Management and as a Senior lecturer of International Business with research interests in the areas of international business with special focus on the international activities of small firms, strategy and international development.

Mr. David Miller was appointed Executive Director in November 2009 after serving as General Manager of the FTC for 9 years. He holds a Masters Degree Accounting and a Bachelor Degree in Management Studies from the University of the West Indies.

Priority Programmes

In line with its mandate as set out in section 5 of the FCA and its mission, "to provide for the maintenance and encouragement of competition in the conduct of trade, business and in the supply of services in Jamaica with a view to providing consumers with competitive prices and product choices", the FTC sets the following general priority programmes within which to focus its work:

Enforce the FCA

Increase emphases on enforcing the provisions of the FCA through the Courts, in relation to business conduct deem inimical to the competitive process to reduce and deter anti-competitive business practices.

Advocate for competitive markets

Improve market efficiency by promoting least restrictive existing and proposed policies to ensure that those policies do not result in the hindering of competition.

Educate the public

Inform and educate policymakers, decision makers, businesses and consumers on the benefits of competitive markets to promote a better understanding of the role of the FTC in fostering a competitive economic environment.

Collaborate with other agencies

Maintain and enhance a presence in the international competition arena to further facilitate the growth and development of the Staff of the FTC; and provide advice on regional competition issues to other CARICOM member States.

Streamline processes

Streamline internal processes to find new and more effective ways to improve the delivery of services to all external Stakeholders as well as to the Staff and Commissioners of the organization, as well as to enhance the efficiency with which we use our resources to carry out our primary function of promoting competition.

Strategic Priorities

As Jamaica's competition advocate with primary responsibility to promote competition and competitive markets, for the benefit and consumers and businesses, and ultimately for improved productivity and economic growth, the FTC is critical to Vision 2030 National Goal #3: - Jamaica's economy is prosperous. National Outcome #8, an enabling business environment and National Outcome #12, internationally competitive industry structures are supported and enabled by the work of the FTC, including in partnership with other entities.

MAIN PRIORITY ISSUES

Continuing work commenced in the previous year, during the 2014/2015 financial year we focused on the following matters considered to be far-reaching in affecting markets and impacting consumers.

Enforcement: We had two major matters pending in the Courts coming from the previous year. One relating to an appeal against a Court of Appeal decision that was in FTC's favour and the other, a matter in which the FTC needed to convince the Court that there is a case to be heard.

- The decision of the Court of Appeal in the Digicel-Claro acquisition matter was delivered in December, and not in favour of the FTC. This therefore required an assessment of the implications of the decision on the enforcement powers of FTC. The acquisition transaction in the telecommunications sector involving two of three mobile operators continued to be of interest to the FTC following the Supreme Court's judgement that the FTC has jurisdiction, pursuant to section 17 of the Fair Competition Act, over matters relating to mergers and acquisition as well as in matters in the telecommunications sector. Following the appeal by Digicel of that decision, in December 2014 the Court of Appeal held that the FTC does not have jurisdiction in the matter.
- In 2013 the Staff filed suit in the Supreme Court against a used-car dealer under section 37 of the FCA which deals with misleading advertising. At the end of the 2013/2014 financial year a date for hearing was not set. The Staff therefore continued the preparation of its case for hearing.

Market Studies: Conducting market studies provides us with an understanding of how particular markets work, are operating and whether there are competition concerns. The objective to produce at least three studies was one of our priorities for the year. Given the consolidation and regulatory changes in the telecommunications industry and the importance of that sector we had committed to study the impact of those developments.

Another area of concern to us was competition in the port services market, recognizing the importance of the range of port services to the Government's strategy to position Jamaica as a global logistics hub.

Legislative Changes: Much needed general amendments to the Fair Competition Act (FCA) continue to be of great importance to us. To effectively promote competition and protect consumers and businesses against anticompetitive business practices a comprehensive legislation is crucial. Further, concerning the challenges in investigating the Digicel-Claro acquisition, the need for a pre-merger regime has become starker. Consequently, the proposal to our parent Ministry for the implementation of a merger control and review regime was a major priority this year.

	Target	
Enforcement for impact		
Court matter	2	
Consent Agreement	3	
Market study	2	
Advocacy	3	
Public Education		
Seminar/ Workshop	2	
Publication	5	
Media Interviews	0	
Case Monitoring & Management		
Initiate action into complaints within 5 days of receipt	100%	
Complaints Resolution rate	75	

In addition to the above major priorities, the targets for the year include the following:

Performance Enforcement for impact

Court Matters

Assessment of Implications of the Court of Appeal Judgement in the FTC v Claro/Digicel Case

Arising from the December 2014 Court of Appeal Judgement in the FTC v Claro/Digicel case, we completed our assessment of proceeding with an appeal to the Privy Council. This Judgement severely crippled the enforcement capabilities of the FCA and has serious implications for the FTC's ability to carry out its mandate towards the effective administration of competition law in Jamaica.

It is noted that competition legislation in most jurisdictions is supported by three main pillars: namely abuse of dominance provisions; provisions prohibiting agreements which lessen competition; and merger review. The FCA does not contain expressed merger review provisions; and enforceability of the abuse of dominance provisions became questionable in 2001 when the Court of Appeal handed down its decision in the Jamaica Stock Exchange case. This left only one pillar.

This pillar was removed with the December 2014 Court of Appeal; and consequently, a wide variety of agreements previously investigated by the FTC can no longer be investigated.

We considered amendment to be not a workable solution as the Court added an element which cannot be inferred from the plain words of the statute. The problem can therefore be rectified only by a reversal of the Judgment by a Higher Court.

Accordingly, holding the view that several aspects of the Court of Appeal's decision are challengeable, by the end of the year we made the decision to apply for Leave to Appeal to the Judicial Committee of the Privy Council. The necessary documentation and applications are to be filled in the 2015/2016 financial year.

Model Year Discrepancy

The FTC successfully convinced the Court that there is a case to be heard pursuant to the Fair Competition Act with respect to model year discrepancy in the used-car sector. This case arose as a result of numerous complaints received from consumers regarding inconsistency between the model year of vehicles as represented by Used Car Dealers and the model year as determined by motor vehicle valuators. The case against a dealer, Crichton Automotive Limited, was scheduled to be heard in April 2015.

Complaints handled

During the year we investigated 326 complaints. This comprises 209 complaints that were unresolved at the end of the previous year; and 117 which were received during the year. For the year, 134 cases were resolved and closed - a resolution rate of 41 per cent; and a total of 192 complaints remained under investigation and were carried forward to financial year 2015/2016. (See Figure 1).





Of the 326 complaints investigated during the year under review, (274) 84 per cent are classified as matters relating to consumer protection; (34) 10 per cent are classified as competition protection; and (6) two per cent as requests for opinion or information. Twelve of complaints received, were considered as being outside the purview of the FCA; and therefore transferred to other agencies, where appropriate.

	Complaints Received					
	201	.3/2014	2014/2015			
Industry Category	Number Percentage of		Number	Percentage of		
		Total		Total		
Telecommunications	66	26.2	29	24.8		
Household appliances &						
supplies	19	7.5	7	6.0		
Motor Vehicles	77	30.6	25	21.4		
Financial & insurance						
services	12	4.8	12	10.3		
Real estate & construction	5	2.0	0	0		
Education	7	2.8	11	9.4		
Professional services	12	4.8	8	6.8		
Transportation	5	2.0	1	0.8		
Government services	1	0.4	1	0.8		
Other	48	19.0	23	19.7		
TOTAL	252	100	117	100		

Table 1: Complaints Received (by Category) during the 2013/2014 & 2014/2015 Financial Years

Market study for promotion of competition

The FTC quantifies the benefit to consumers from a reduction in mobile termination rates

In October 2014, we completed a study to quantify the benefits arising from the reduction in termination rates. We assessed the effect of the lower termination rates using the quantity of talk time ('mobile call volume') as a measure of consumer welfare; and concluded that up to March 2014, subscribers would have talked for approximately 10,021 million minutes if the termination rate was not reduced. The actual talk time recorded during the period when the termination rate was reduced, however, amounted to as much as 11,302 million minutes. This means that the OUR's intervention benefitted consumers by 1,281 million minutes over a 21-month period. To the extent that mobile call rates for standard calling plans ranges between \$1.99 and \$17.70 per minute, the market value of these benefits ranges between \$2,549 million and \$22,674 million.

The primary conclusion of the study is that subscribers to mobile voice services are enjoying considerable benefits from the changes in the regulation governing mobile termination rates. The OUR's decision to introduce a cost-based reciprocal termination rate stimulated competition between telecoms operators in the form of significantly lower calling rates. This came as sweet relief to subscribers who were adversely affected by the exit of one of the three mobile service operators in 2011.

Impact of mandatory subscription to trade association

We reviewed the Realtors Association of Jamaica's (RAJ) proposal of a new requirement to its members that they must subscribe to the National Association of Realtors (NAR), one of the largest trade associations for real estate professionals in the United States, as a condition of RAJ membership.

Our analysis revealed that, the proposal is unlikely to harm consumers in the relevant market since it does not harm competing suppliers or property listing services. Further, it is likely to lead to efficiencies by enhancing the value of the property listing service offered by the RAJ.

Are there impediments to competition in the port service sector?

This is the question we plan to answer through our study of the port services sector in Jamaica. The objective of the study is to identify the main impediments to competition in the sector and to recommend measures to mitigate their effect.

With the pending development of Jamaica's Global Logistics Hub (GLH), local ports will have the capacity to accept much larger vessels than they are currently able to do. As such, the demand for port services will substantially increase as more suppliers are likely to have the opportunity and/or incentive to transport goods through Jamaica's seaports.

Jamaica will be able to fully exploit the Hub only to the extent that the current capacity to deliver port services can be expanded to satisfy the anticipated higher demand. If there are conditions which unduly frustrate attempts of more efficient firms to enter the industry or conditions which unduly prevent less inefficient providers from exiting the sector, then Jamaica is unlikely to extract the maximum benefits of developing the Hub.

It is known from both a conceptual and practical viewpoint, that a competitively organized sector would continually encourage the entry and expansion of efficient service providers; while systematically expunging inefficient providers.

The benefits of recent interventions in Jamaica's telecoms sector

Sustainable economic growth has eluded Jamaica for the better part of the last fifty years. While I make no claim to be clairvoyant, it seems reasonable to argue that Jamaica's prospect for growth over the next fifty years is inextricably linked to the performance of the telecommunication sector. Currently, there is hardly any area in our commercial and personal space which is untouched by information technology.

Markets generate considerable benefits for consumers as they become organized competitively. These benefits include (i) lower prices; (ii) greater product diversity; and (iii) greater rates of technological development, relative to markets which are not competitively organized. Competition therefore offers the best opportunity for a market to "grow" in the sense of becoming accessible to more consumers and offering greater product diversity.

Accordingly, the promotion and preservation of competition in the telecommunications sector is absolutely critical for Jamaica's growth prospects as growth in the sector is likely to translate to the greatest sustainable expansion of the wider economy. The Government of Jamaica administers oversight responsibilities over the telecommunication sector via two institutions: The Fair Trading Commission (FTC) and the Office of Utilities Regulation (OUR). The purpose of this article is to assess recent interventions of these institutions in the telecommunication sector.

The telecommunication sector has been rocked with two 'shocks' in recent years. The first shock involved the merging of competing mobile operators. Specifically, in August 2011, Digicel Jamaica Limited ('Digicel') acquired Oceanic Digital ('Claro'). All other things constant, the exit of a significant rival will adversely affect the performance of the market and result in reduced consumer welfare. In December 2011, the FTC sought to intervene by challenging the legitimacy of the transaction in the Courts. This intervention was timely and decisive as it sought to preserve the benefits that competition between Digicel and Claro had been generating for mobile subscribers. The FTC estimated that during the three year period preceding this transaction, competition generated consumer benefits in excess of \$4,182 million annually in the form of increased promotions and value offers and reduced calling rates. The second shock involved changes in the regulations governing mobile termination rate (MTR). MTR refers to the price one operator pays to complete (i.e., terminate) calls on a mobile network belonging to another operator. Termination service is a crucial input for the provision of voice services, especially for operators of smaller networks. The OUR reduced the MTR to \$5.00 per minute in July 2012 and then to \$1.10 per minute in July 2013. All other things constant, lower MTRs will positively affect the market by increasing the opportunities and incentives for operators to lower prices. This is exactly how it played out in Jamaica.

The public correctly anticipated that lower call rates would improve consumer welfare. What is uncertain to date, however, is the extent of such benefits. One way of measuring the benefit is to compare consumer welfare when the MTR was lowered with the consumer welfare had the MTR not been lowered.

The FTC assessed the effect of the lower MTR using the quantity of talk time ('mobile call volume') as a measure of consumer welfare. The FTC concluded that up to March 2014, subscribers would have talked for approximately 10,021 million minutes if the MTR was not reduced. The actual talk time recorded during the period when the MTR was reduced, however, amounted to as much as 11,302 million minutes.

This means that the OUR's intervention benefitted consumers by 1,281 million minutes over a 21-month period. To the extent that mobile call rates for standard calling plans ranges between \$1.99 and \$17.70 per minute, the market value of these benefits ranges between \$2,549 million and \$22,674 million.

Conclusion

Subscribers to mobile voice services are enjoying considerable benefits from the changes in the regulation governing mobile termination rates. The OUR's decision to introduce a cost-based reciprocal mobile termination rate stimulated competition between telecoms operators in the form of significantly lower calling rates. This resulted in subscribers accessing benefits valued between \$2,549 million and \$22,674 million and came as sweet relief to subscribers who were adversely affected by Claro's exit in 2011.

Dr Kevin Harriott Competition Bureau Chief, FTC.

Advocacy

Competition advocacy refers to those activities we undertake that are related to the promotion of a competitive environment by means of non-enforcement mechanisms, mainly through our relationships with other governmental entities.

During the year 2014/2015 our advocacy activities related to the following:

- 1. Review of the Fair Competition Act
- 2. The Office of Utilities Regulation's consideration of a rate increase to the Jamaica Public Service Company Limited
- 3. The establishment of an Information Communication and Technology Regulator
- 4. Distribution of fuel
- 5. Port services

Amendment to the Fair Competition Act

Pursuant to the Cabinet decision to create a policy framework for a Mergers & Acquisitions (M&As) regime, FTC completed a needs assessment which includes the FTC's 2006 Position Paper on M&A, amendments to the Fair Competition Act which would be necessary as well as the 2005 Report on the Voluntary Peer Review on Competition Policy, which was conducted by the United Nations Conference on Trade & Development.

Effect of rate increase to JPS

The FTC submitted comments to the Office of Utilities Regulation for its consideration of a rate increase to Jamaica Public Service Company Limited (JPS). With regard to JPS' proposal, the FTC advised that:

(a) replacing the current Price Cap regime with a Revenue Cap regime is likely to lessen the incentives for JPS to establish an efficient tariff structure;

(b) introducing a wholesale rate designed to encourage its largest customers to remain entirely on the grid is internally inconsistent with the JPS' proposal to replace the price cap regime with a revenue cap regime; and

(c) reducing the rate review period from five years to three years would likely frustrate the ability of the OUR to monitor and evaluate the JPS.

In addressing the rates increase requests by JPS, we concluded that increasing JPS's residential tariff by 21 per cent on average; increasing its general service tariff by 15 per cent on average; and reducing its commercial and industrial tariff by 1.5 per cent on average, are likely to discourage an efficient use of scare production resources, and therefore will unlikely result in savings to businesses and consumers.

Competition consideration of an ICT Regulator

We participated in meetings and submitted comments to the Ministry of Science Technology Energy & Mining on its project "Enhancing the ICT Regulatory Environment in Jamaica", the ultimate objective being to guide the implementation of an ICT Regulator.

Competitive effect of Fuel Supply Agreement

We conducted a review of the provisions relating to a Fuel Supply Agreement which Petrojam is a party to; and provided an opinion on whether the Agreement is likely to contravene the Fair Competition Act. The issue was also reviewed within the context of an assessment of the competitive effects of the Agreement: to determine whether and the extent to which it could adversely affect competition in the market for bunker fuel sold in the Kingston Harbour.

Amendment to the Port Authority Act and the Wharfage Act

Upon reviewing of various statutes governing the port services sector we concluded that amendments to the regulatory policies are necessary to stimulate competition in the sector. For example, it is noted that the status quo which sees the Port Authority of Jamaica concurrently offering port services commercially and exercising regulatory oversight over the sector could impede the development of competition in the sector and by extension, frustrate growth of the wider economy.

With respect to the Port Authority's power to determine the transhipment container charges and to set the domestic cargo rates, we advised that the market must be given a free hand to adjust prices as it is through the adjustment of prices throughout the economy that markets are able to re-allocate productive resources to their most efficient uses. Accordingly, removing the power or authority of any entity to control market prices is of immeasurable importance to the development of competition in the sector. For competition to be nurtured, prices should evolve based solely on demand and supply conditions rather than at the discretion of any central (private or public) body.

The FTC's views were submitted to the Cabinet Office.

Public Education

As a commitment to educate the business community, policymakers and consumers on competition law matters, we undertook several activities for the year, most of which have become an annual event. These events include publications and speaking engagements or presentations by our Staff. Below are some of the main events for the year.

Annual Magazine

The 19th issue of the FTC's annual magazine was published in January 2015 and distributed to approximately 700 persons, both locally and overseas as well as posted on our website. The theme for the year's magazine is *"Competing in the Hub"*. Articles published include, *Jamaica Logistics Hub and Economic Growth* by Dennis Chung, Chief Executive Officer of the Private Sector Organization of Jamaica; *Competing in a Logistics-Centred Economy: Insights for Improved Firm Performance* by Densil Williams, Commissioner at the FTC.

Newsletter

FTCNewsline is a quarterly newsletter which contains information on competition matters dealt with by the FTC. For the year four issues were published in April, July and October 2014 and January 2015. The issues were emailed to over 300 persons, including representatives of the major television stations, newspapers and radio stations. The aim of the newsletter is to provide insights into the work of the FTC; and to assist persons in better identifying issues that may pose competition concerns.

Public Lecture

We host the 15th public lecture in the Shirley Playfair Lecture series in September under the theme, **Competing in the Hub**: *A look at the opportunities for Jamaicans and the benefits to businesses and consumers from Jamaica's Logistics Hub*. The lecture was delivered by Dr. Fritz Pinnock, Executive Director of the Caribbean Maritime Institute.

FTC participates in Mobile Business Clinic Initiative discussion

The FTC joined the Mobile Business Clinic Initiative (MBCI) as a sponsor to disseminate much needed information to the Micro, Small and Medium-Sized Enterprises (MSMEs) on the manner in which the dynamics of competition law and policy can assist in business growth. The MBCI is a major undertaking by the Ministry of Industry, Investment and Commerce; spearheaded by the Jamaica Business Development Corporation (JBDC) under the theme: *"Strengthening the capacity of Jamaican MSMEs"*. It is formatted as a joint collaboration between both public and private sector entities geared towards providing needed business support services to MSMEs.

The first seminar was delivered at the launch of the MBCI at the Civic Centre, Sam Sharpe Square, Montego Bay on November 4, 2014. Mr. David Miller, Executive Director, made a presentation under the theme: "Competing to Grow" to an audience of

over thirty small business operators and other individuals.

Competition Law and Policy Course

In July and October 2014, the FTC hosted its Intermediate level Course in Competition Law and Policy. The Course is accredited by the General Legal Council for the purposes of its Continuing Legal Professional Development program; and accordingly, Attorneysat-Law who participated in the Course were awarded ten (10) credits towards the program.

The course which is directed towards attorneys, business persons, competition law practitioners, economists, judges, policymakers and regulators covers principles and concepts such as:

- Objectives and Economics of Competition Law;
- Assessment of Anti-competitive effect;
- Horizontal and Vertical Agreements;
- Analysis of Network Industries;
- Abuse of Dominance;
- Interaction between Competition Law and other laws; and
- Administration & Enforcement of Competition Law.

FTC participates in forum on mergers and acquisitions in the telecommunications sector

In November we participated in a Public Forum on a proposed consolidation within the telecommunications sector which would involve the two main industry players. The Forum was organized following an announcement earlier in the month that Cable and Wireless Communication had secured an agreement to acquire Columbus International. Both entities had subsidiary entities operating in Jamaica.

The Forum brought together regulators, academia and telecoms entities and was hosted by the Mona School of Business and Management (MSBM) at the Mona Campus of the University of the West Indies, Jamaica. Also participating in the forum were, the Spectrum Management Authority; Dr. Kamau Chionesu, Lecturer at the MSBM; and Digicel Jamaica and Cable and Wireless Jamaica Limited.

Under the theme "Mergers and Acquisitions in the Telecoms Sector: Implications for Competition", Dr. Kevin Harriott, Competition Bureau Chief at the FTC articulated the views and concerns of the FTC with respect to mergers generally and specifically in a concentrated industry.

Dr. Harriott's presentation focused on the general scope of assessments conducted regarding any proposed acquisition highlighting the purpose of reviewing mergers, the factors that would be considered, and the efficiencies, if any, which would be generated

specifically as a result of the consolidation. He also identified some of the data which are routinely collected by competition authorities and explained how this data is used in the assessment and in arriving at a conclusion on the competitive effect of a merger or acquisition.

Newspaper Publications

The following articles written by Dr. Kevin Harriott, Competition Bureau Chief at the FTC, were published in the Financial Gleaner:

- "The Benefits of Recent Intervention in Jamaica's Telecoms Sector," Financial Gleaner, October 10, 2014. This article highlighted our findings that consumers benefitted between JA\$2.5 billion and JA\$22.7 billion from the lowering of the mobile termination rates in 2012 and 2013.
- "The Price of Finished Petroleum Products Rises Faster than it Falls," Financial Gleaner, January 30, 2015. This article was republished in CARICOM Competition Commission <u>Quarterly Report</u>: January- March 2015. This article discussed our main findings that reductions in the ex-refinery price of fuel are passed on to consumers at a faster pace in areas where competition is more intense.

Competing in a logistics-centred economy: Insights for improved firm performance

Introduction

The Jamaica Logistics hub project will present an important shift in the way the country does business with the rest of the world. The project as it is now conceived, will position Jamaica as the 4th node in the global logistic chain behind Singapore, Rotterdam and Dubai. This is an important development as Jamaica finally has taken the chance to use its location as a competitive tool to drive economic growth and development. Making Jamaica into a logistics-centred economy like Singapore and other small, island economies such as Dubai, is a step in the right direction.

Small economies, given their liability of size cannot compete in the global economy without a strong internationalization of their enterprises and industry sector. Put simply, these economies are too small to generate economies of scale in production and distribution if they remain focused on their domestic market. Therefore, to internationalize their operations, logistics will become a key plank of the strategy. It is important therefore; that the domestic firms and local industry sectors in Jamaica becomes ready to improve their operations in order to play a big part in the logistics centred economy.

The business environment

From all the various objective indicators, it is clear that Jamaica is making significant progress towards improving its business environment, as a pre-condition to prepare for the logistics centred economy. The improvements in the country's fiscal accounts as a result of strong oversight from the International Monetary Fund under the extended fund facility programme; the return to a positive growth path in the country's GDP; the recent improvements in the country's competiveness ranking (moving from 94 in 2013 to 86 in 2014); the massive jump in the ease of doing business scores (moving from 85 in 2013 to 58 in 2014); the massive jump in the logistics performance index (moving from 124 in 2013 to 70 in 2014) are all strong indicators that the business environment is headed in the right direction.

The policy frameworks at the macro-level (for example, the ease of getting credit facilitated by the security interest in personal property act; the ease of starting a business facilitated by reforms in the Companies Office of Jamaica super-form etc.) is being laid to ensure that businesses at the micro level, finds it more hassle-free to carry out their day to day activities in order to benefit from the tremendous opportunities that will be derived from a logistics-centred economy.

However, while these macro-level policies are necessary to facilitate greater levels of competitiveness at the firm level, they are not sufficient to generate significant growth in the firm. Significant reforms will have to be done at the firm level as well in order to prepare them for competition in the hub.

Firm level reforms

In a logistics-centred economy, it is clear that domestic industry sectors will be opened up to significant competition from the rest of the world through: trade in imported goods and service or competition from foreign firms that have relocated to the domestic market for production and distribution of their outputs. Therefore, if domestic firms are to have any chance of survival in the more inhospitable trading environment, they will have to significantly improve their operations to produce at international standards in terms of: their cost of structure, the lay out of their production facilities, the organization of their distribution outlets, their revenue and efficiency ratios; their business processes among other areas. Put differently, local firms will have to become internationally competitive if they are to survive the strong competition in a logistics-centred economy.

This reform will have to start with an acknowledgement by business owners and macro-prudential regulators that business processes and policies will have to become more nimble to provide the firms with the latitude to respond swiftly to developments in the marketplace. As such, the regulatory environment will have to provide for greater flexibility to firms to help them to become more creative in their operations. For example, there has to be greater flexibility in allowing firms to raise capital from non-traditional sources such as angel investors to

finance their working capital and capital investments without having to go through extremely onerous scrutiny from a regulator, which may eventually allow business opportunities to be missed. Please note that I am not for once arguing that we should be reckless with regulations and allow monies to be laundered. What I am suggesting is that while taking care to ensure that legitimate activities are carried out, the regulators should not make the regulations be too burdensome to the point where good business opportunities are missed. Regulations must be facilitatory not punitive; especially in a highly competitive marketplace where some firms are more resourced than others. Punitive regulations will only kill smaller and less resourced firms and allow only large and resource rich firms to survive. This will not be healthy for economic growth and job creation since smaller firms by their nature, have a greater reach to provide jobs for a larger mass of the population than larger firms.

Another important reform that will have to take place at the firm level as well has to do with the employment and hiring practices. In a logistics-centred economy, human resource development is key to building a strong competitive advantage. Companies will have to ensure that they attract the right talent that can deliver on the vision and mission of their organizations. This will require continuous training and upgrading of the human resource stock. Critically, partnership with universities and other training institutions will be key in helping firms to get the right talents into their organization. This partnership is useful as it will help training institutions to develop their curriculum to better serve the needs of the business environment as well.

The human resources in the firms in a logistics-centred economy will become the most important asset in driving the competitiveness of the enterprises which compete in that space. Importantly, local firms will have to ensure that they acquire human resources that are at the higher levels of the education value chain as this is critical to deal with some of the higher order tasks that will be required in the logistics-centred economy where greater value creation is extracted. Merely acquiring human resources at the lower levels of the value chain(e.g. persons with vocational skills) will not be able to give domestic firms a stronger competitive advantage in the marketplace. Higher order analytical skills will be needed to drive much of the competitive advantage in domestic firms if they are to benefit from operating in the logistics-centred economy.

The role of anti-trust agencies

If the firms that operate in the logistic-centred economy are to become internationally competitive and reap the tremendous benefits from a greater integration into the world economy, then a level playing field has to be set for all competitors in the marketplace. Given the pervasive nature of logistics, it is important that proper oversight be given to industry sectors as traditional modes of competition and operations will become a thing of the past. A logistics-centred economy will change the structure of industries and reduce the barriers to entry thus forcing more rivalry among firms. While rivalry is important for innovation and competitiveness, it is critical that an impartial referee is there to ensure that enterprises play by the rules. Anti-trust agencies, like the Jamaica Fair Trading Commission, will have a critical role to play in a logistics-centred economy. They will have to start studying industry structures and determine the types of structural make-up that are most appropriate for different types of operations, the types of regulatory regimes that are most appropriate to facilitate rather than hinder productivity in the enterprises, among other things. The work produced by these agencies will be critical to inform the policy developments around industry structure in the new economy; especially in the context of small, open economies like Jamaica.

Concluding thoughts

As Jamaica prepares to become a strong player in the global logistics hub and to make logistics an important element in the country's growth pole, it is important that the positive momentum towards improving the business environment continues. Similarly, it is important that reforms be done at the firm level in the areas of business processes, recruitment of human resources among other things. Further, an enabling regulatory regime which facilitates rather than hinder productivity in the enterprises will be key to unlocking the potential in domestic firms in order for them to benefit from competing in a logistics-centred economy.

Densil A. Williams is Professor of International Business and Executive Director of Mona School of Business and Management. He is also a Commissioner of the Fair Trading Commission.

- The Executive Director participated in a conference hosted by the Organisation for Economic Cooperation & Development (OECD) together with the Comision Economica para America Latina y el Caribe (CEPAL), Chile's Ministry of Economy and the World Bank Group (WBG) entitled "Promoting Market Studies in Latin America", in Santiago, Chile. The event focused on the role of market studies in enhancing the work of competition agencies towards enforcement of competition law. The key topics discussed were the benefits of market studies as an advocacy tool; the importance of access to information held by private agents and other public entities; and government commitment towards market studies.
- Dr. Kevin Harriott, Competition Bureau Chief, participated in the 2nd Meeting of the Reconvened Task Force on the Implementation of Chapter 8 of the Revised Treaty-Competition Law and Policy held in Barbados, March 19 & 20, 2015. Currently, there is no regional policy on transactions which results in mergers and acquisitions and the meeting was timely in the sense that there has been a noticeable increase in the number of such transactions which are likely to have regional effects. This is certainly the case for Jamaica in particular in the financial and telecommunication sectors. The participants deliberated on a framework for a regional coordination of such transactions and discussed matters such as the objective, scope and the jurisdiction of the regional competition authority relative to national authorities.
- The Senior Legal Counsel, Dr. Delroy Beckford, presented two papers at the IV Annual Meeting at the Working Group on Trade and Competition in Latin America and the Caribbean (WGTC) in Punta Cana, Dominican Republic, November 5-6, 2014. The first entitled "WTO Agreement on Trade Facilitation and Implications for Intra-Regional Trade - the Case of CARICOM" examined the proposed trade facilitation agreement and the extent to which its provisions can enhance intra-regional trade for CARICOM. The second paper entitled "Litigation of Latin American & Caribbean Countries at the World Trade Organization (WTO) and Underlying Competition Issues", examined dispute settlement at the WTO involving Latin American and Caribbean countries regarding disputes involving competition issues.
- We submitted to CARICOM comments on its Needs Assessment of capacity building within the Caribbean Forum of the African Caribbean Pacific Group of States (CARIFORUM) in the areas of competition, public procurement and customs and trade facilitation.
- The FTC, as a member of the Steering Committee of CARICOM's project to Strengthen the CSME Regulatory and Market Regime, commented on the consultant's inception report. The specific areas that are being addressed under the project are (a) developing

a common framework policy for a single jurisdiction for business entities; (b) strengthening the administrative and enforcement mechanisms to prevent and address restrictive business practices; (c) enhancing intra-CSME cooperation and coordination in relation to consumer protection mechanisms; and (d) finalizing elements of a mergers and acquisitions policy for CARICOM.

- The FTC as a member of the CARICOM Competition Commission (CCC) Project Steering Committee for consumer protection participated in several meetings during the Financial Year 2014/2015.
- We submitted comments to COTED on activities of the CCC including their 2015 Work Programme and Budget and Community Competition Policy which includes its Rules of Procedure, Investigative Procedures, Determination of Fines, Fining Guidelines and Internal Guidelines to Staff.
- We submitted a project proposal to the Government of Belize for the creation and development of an effective national competition regime in Belize, which would be consistent with regional and international treaty obligations. The proposal included recommendations for technical support and capacity building, effective administration and enforcement, consumer protection, standards and trade remedy considerations, relevant regional and international treaty obligations, on-the-job training, training for key stakeholders, the Terms of References for consultancies/studies, policy development as well as a communication and visibility plan.

Forecasts for 2015/2016

Key operating measures for 2015/2016

In recognition of the four key attributes of the logistics-centred economy, namely (i) creating a business friendly environment; (ii) connectivity; (iii) supply & value chain; and (iv) Micro, Small to Medium sized Enterprises (MSME) Sector & entrepreneurship, we will undertake activities in line with our priority strategy for 2015/2016:

In particular the FTC's main focus for 2015/2016 will include the following:

- 1. Improved market access for MSME with respect to services relating to the Logistics Hub. This will include market studies in the following sectors: port services; trucking and road transport; and operations within Special Economic Zones.
- 2. Reduction in Information Asymmetry between consumers and providers of financial services. The primary focus will be on disclosure of information by suppliers and improvement in financial literacy on the part of consumers.
- 3. Strengthening of the competition legislation to include merger control/review.

It is widely accepted that competition law is substantially less effective at protecting the competitive process without merger control/review. The FCA does not include the relevant provisions and it has been agreed that such provisions should be included. The process that will guide a Merger Control/Review regime is at an early stage and should be speeded up especially in light of the increased business activity that is likely to come as a result of the Global Logistics Hub Initiative.

Summary Statements of Finance

Table 2 provides a summary statement of the actual expenses by the FTC during Financial Year 2014/2015 as well as for two previous Financial Years. Also included is the Approved Budgetary Allocation for the review period.

Table 2: Approved Budget for 2014/2015 and Actual Expenses for Financial Years ended 2013, 2014 &
2015

Object	2014-2015 Approved (Ja \$)	2014-2015 Actual Expenses (Ja \$)	2013-2014 Actual Expenses (Ja \$)	2012-2013 Actual Expenses (Ja \$)
Compensation of Employees	56,306,673	55,187,600	57,481,005	48,845,163
Travel Expense & Subsistence	5,383,000	7,249,220	7,230,068	6,497,478
Rental of Building, Machinery & Equipment	9,104,000	7,878,406	10,510,220	9,831,452
Public Utility Services	2,110,000	2,717,555	2,798,232	2,389,658
Purchase of other Goods & Services	1,824,000	3,411,454	4,369,437	3,010,775
Asset Purchases	40,000	92,187	1,537,552	40,186
Total	74,767,673	76,536,422	83,926,514	70,614,712

Table 3: Budgetary Request, Approved and Operating Income for 2013, 2014 & 2015

	2014/2015	2013/2014	2012/2013
Budgetary Request	83,060,000	81,060,000	80,148,000
Approved	74,767,785	73,514,000	71,416,828
Subvention Received	82,229,001	74,834,093	74,681,731
Other Income	2,467,759	3,424,826	127,374

Name and Position of Director	Fees (\$)	Motor Vehicle Upkeep/Travelling or Value of Assignment of Motor Vehicle (\$)	Honoraria (\$)	All Other Compensation including NonCash Benefits as applicable (\$)	Total (\$)
Christopher Samuda Chairman	\$50,000 per month	0	0	0	600,000
Michelle Brown Commissioner	\$27,500 per month	0	0	0	330,000
Dena Davis Commissioner	\$27,500 per month	0	0	0	330,000
Densil Williams Commissioner	\$27,500 per month	0	0	0	330,000

<u>Commissioners Compensation</u>

• Senior Executive Compensation

Name and Position of Senior Executive	Year	Salary (\$)	Gratuity or Performance Incentive (\$)	Travelling Allowance or Value of Assignment of Motor Vehicle (\$)	Pension or Other Retirement Benefits (\$)	Other Allowances (\$)	NonCash Benefits (\$)	Total (\$)
David Miller Executive Director	2014/ 2015	6,630,852	2 0	975,720	330,113	0	0	7,936,885
Ann-Marie Grant General Manager	2014/ 2015	5,510,847	7 O	975,720	273,332	0	0	6,760,099
Delroy Beckford Senior Legal Counsel	2014/ 2015	6,032,097	У О	975,720	0	0	0	7,008,017
Kevin Harriott Competition Bureau Chief	2014/ 2015	7,121,416	5 0	975,720	310,756	0	0	8,408,092

Staff of the Commission

Staff of the Commission during the year April 1, 2014 to March 31, 2015

Executive Director	-	Mr. David Miller
General Manager	-	Miss Ann-Marie Grant
Senior Legal Counsel	-	Dr. Delroy Beckford
Competition Bureau Chief	-	Dr. Kevin Harriott
Legal Officer	-	Miss Wendy Duncan
Legal Officer	-	Mr. Marc Jones
Competition Analyst	-	Miss Verlis Morris
Competition Analyst	-	Mr. Desroy Reid
Accountant	-	Mr. Gregory McHargh
Research Officer	-	Miss Kristina Barrett
Research Officer	-	Mr. Lyndel McDonald
Complaints Officer	-	Mr. Paul Cooper
Executive Secretary	-	Mrs. Jean Lally
Legal Secretary	-	Miss Kathleen Francis
Senior Secretary	-	Miss Deborah Wilson
Clerk/Typist	-	Mrs. Latoya Wallace
Telephone Operator	-	Miss Sonya-Cai Burrell
Office Attendant	-	Mrs. Carol Fraser
Driver	-	Mr. Alwyn Hutchinson

FAIR TRADING COMMISSION FINANCIAL STATEMENTS FOR THE YEAR ENDED MARCH 31, 2015

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AUDITOR GENERAL'S DEPARTMENT P.O. BOX 455 KINGSTON 5 JAMAICA Email: audgen@auditorgeneral.gov.jm

INDEPENDENT AUDITOR'S REPORT

To the Board of Directors of the Fair Trading Commission

Opinion

I have audited the accompanying Financial Statements of the Fair Trading Commission, set out on pages 1 to 14, which comprise the Statement of Financial Position as at March 31, 2015, Statement of Financial Performance, Statement of Changes in Equity and Statement of Cash flows for the year then ended, and a summary of significant accounting policies and other explanatory notes.

In my opinion, the Financial Statements give a true and fair view of the financial position of the Fair Trading Commission as at March 31, 2015, and of its financial performance, and its cash flows for the year then ended in accordance with International Public Sector Accounting Standards (IPSAS).

Basis for Opinion

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). My responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of this report. My staff and I are independent of the Commission in accordance with the International Ethics Standards Board for Accountants' Code of Ethics for Professional Accountants (IESBA Code) and we have fulfilled the other ethical responsibilities in accordance with the IESBA Code. I believe that the audit evidence I obtained is sufficient and appropriate to provide a basis for my opinion.

Key Audit Matters

Key audit matters are those matters that, in my professional judgment, were of most significance in my audit of the financial statements of the current period. I have determined that there are no key audit matters to communicate in this report.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these Financial Statements in accordance with International Public Sector Accounting Standards (IPSAS). This responsibility includes: designing, implementing and maintaining internal controls relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

In preparing the financial statements, management is responsible for assessing the Commission's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless there are plans to liquidate the Commission or to cease operations, or has no realistic alternative but to do so.

Auditor's Responsibility for the audit of the Financial Statements

My responsibility is to express an opinion on these Financial Statements based on my audit. I conducted my audit in accordance with the auditing standards issued by the International Organization of Supreme Audit Institutions (INTOSAI). Those standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with ISSAIs, I exercise professional judgment and maintain professional skepticism throughout the audit.

I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to
 fraud or error, design and perform audit procedures responsive to those risks, and obtain audit
 evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting
 a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may
 involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal
 control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Commission's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Commission's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. The conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the Commission to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that presents a true and fair view.

Additionally, I am required to communicate with the Executive Director regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that was identified during the audit.

Report on Additional Requirements of the Fair Competitions Act

I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit. In my opinion, proper accounting records have been maintained and the Financial Statements are in agreement therewith and give the information required in the manner so required.

Auditor General

02/14 Date
Fair Trading Commission Statement of Financial Position as at March 31, 2015

	Note	2015 \$	2014 \$
Non-current assets			
Property, plant and equipment	6	3,062,778	3,546,647
Current assets			
Receivables and prepayments	7	4,315,612	1,246,283
Cash and cash equivalents	8	58,175	1,443,637
personal an operation of the second state of the		4,373,787	2,689,920
Current Liabilities Accounts Payable Statutory Deductions Other Payables	9 10 11	5,508,646 4,840,792 3,662,898	5,654,307 16,829,449 6,947,821
		<u>14,012,336</u> (9,638,549)	29,431,577 (26,741,657)
Net Assets		(6,575,771)	(23,195,010)
Nel Assels		(0,070,771)	(23,133,010)
Equity			
GOJ Capital Fund		9,219	9,219
Accumulated Deficit		(6,584,990)	(23,204,229)
		(6,575,771)	(23,195,010)
			,

The financial statements on pages 1 to 14 were approved for issue on behalf of the Commission on SELTEMOER. 26, 2018, and signed on its behalf by:

. Derrick McKoy Chairman

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Mr. Stuart Andrade Commissioner

The accompanying notes on pages 5 to 14 form an integral part of the financial statements.

Fair Trading Commission Statement of Financial Performance for the year ended March 31, 2015

	Note	2015	2014
		\$	\$
Revenue			
Competition Law Courses		828,000	480,000
Consultancy Services		-	2,749,826
GOJ Subvention		82,229,001	74,834,093
Appropriations-In-Aid Fund		1,639,759	195,000
Total Operating Revenue		84,696,760	78,258,919
Operating expenses			
Operating expenses Compensation of Employees	13	55,328,334	55,564,465
Travelling and Transportation	14	7,184,071	7,230,068
Premises Related Expenses	15	8,689,019	10,510,220
Public Utilities	16	3,177,782	2,759,249
Goods and Services	17	5,172,732	6,554,943
Depreciation	6	576,056	585,820
Bank Charges	18	114,934	105,373
Project Expenditure	19	262,966	658,842
Total Operating Expenses		80,505,894	83,968,980
Net Profit/(Loss) from Operations		4,190,866	(5,710,061)
Write off of statutory payables	12	12,180,415	-
Other Income		161,354	136,762
		86,604	114,402
Transfer from GOJ/USAID Grant		-	<u> </u>
		12,428,373	207,010
Surplus /(Deficit)		16,619,239	(5,452,548)

The accompanying notes on pages 5 to 14 form an integral part of the financial statements.

Page 2

Fair Trading Commission Statement of Changes in Equity for the year ended March 31, 2015

	GOJ Capital Fund	General Reserve	Total
	\$	\$	\$
Balance as at March 31, 2013	15,568	(17,751,681)	(17,736,113)
Deficit for the year		(5,452,548)	(5,452,548)
Transfer to Income	(6,349)	-	(6,349)
Balance as at March 31, 2014	9,219	(23,204,229)	(23,195,010)
Balance as at March 31, 2014	9,219	(23,204,229)	(23,195,010)
Surplus for the year	-	16,619,239	16,619,239
Balance as at March 31, 2015	9,219	(6,584,990)	(6,575,771)

The accompanying notes on pages 5 to 14 form an integral part of the financial statements.

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· · · · · · · · · · · · · · · · · · ·	Note	2015	2014
		\$	\$
Cash flows from operating activities			
Surplus/(Deficit) for the year		16,619,239	(5,452,548)
Adjustments:			
Depreciation	6	576,056	585,820
Increase in Current Assets		(3,069,329)	(128,597)
Decrease in current liabilities		(15,419,241)	3,608,175
Net cash provided by operating activities		(1,293,275)	(1,387,150)
Cash flows from investing activities Capital expenditure Net cash used in investing activities	6	<u>(92,187)</u> (92,187)	(1,508,098) (1,508,098)
Cash flows from financing activities GOJ-Capital Fund Net cash flows from financing activities Increase/(decrease) in cash and cash equivalents Cash and cash equivalents at beginning of year Cash and cash equivalents at end of year		- (1,385,462) 1,443,637 58,175	(6,349) (6,349) (2,901,597) 4,345,234 1,443,637

The accompanying notes on pages 5 to 14 form an integral part of the financial statements.

Page 4

1. IDENTIFICATION

The Fair Trading Commission (FTC) was established to administer the Fair Competition Act (FCA) which was enacted on March 9, 1993; and commenced operations on September 9, 1993. The main activity of the FTC is the investigation of business conduct to determine if the FCA has been breached; and its mandate is to provide for the maintenance and encouragement of competition in the conduct of trade, business and in the supply of services in Jamaica with a view to providing consumers with competitive prices and product choices.

2. REPORTING CURRENCY

These financial statements are expressed in Jamaica Dollars (\$), which is the Commission's functional currency.

3. SIGNIFICANT ACCOUNTING POLICIES

The principal accounting policies applied in the preparation of these financial statements are set out below. The policies have been consistently applied for the years presented.

(a) Statement of Compliance and Basis of Preparation

The financial statements are prepared in accordance with International Public Sector Accounting Standards (IPSAS) and interpretations issued by the International Public Sector Accounting Standards Board (IPSASB). The IPSASB is an independent board of the International Federation of Accountant (IFAC). IPSAS are based on International Financial Reporting Standards (IFRS) issued by the International Accounting Standards Board (IASB).

The preparation of the financial statements to confirm to IPSAS requires management to make estimates and assumptions that affect the reported amount of assets and liabilities, contingent assets and contingent liabilities at the reporting date and the income and expenses for the year then ended. Actual amounts could differ from these estimates.

The financial statements are prepared under the historical cost convention, modified for the inclusion of certain investments at fair value.

Where necessary, prior year comparatives have been reclassified to conform to current year presentation.

3. SIGNIFICANT ACCOUNTING POLICIES (CONT'D)

(b) Property, Plant and Equipment

Property, plant and equipment are stated at historical cost less accumulated depreciation. Depreciation is calculated on the straight-line basis at annual rates estimated to write off the carrying value of the assets over the period of their estimated useful lives. Annual rates are as follows:

Motor vehicles	25%
Furniture & Fixtures	10%
Computer equipment	25%

Property, plant and equipment are reviewed periodically for impairment. Where the carrying amount of an asset is greater than its estimated recoverable amount, it is then written down immediately to its recoverable amount.

(c) Cash and Cash Equivalents

Cash and cash equivalents are carried in the statement of financial position at cost. For the purpose of the cash flow statement, cash and cash equivalents comprise cash at bank and in hand, and short term deposits.

(d) Capital Fund

This fund represents capital grants received and is written off on a straight line basis over the life of the assets. An amount equivalent to depreciation is charged in the statement of financial performance.

(e) Employee Benefits

A provision is made for the estimated liability for untaken annual vacation leave due as a result of services rendered by employees up to the reporting date.

(f) Revenue recognition

Revenue represents subvention received from the Government of Jamaica and grants received from various multi-national funding agencies.

Interest income is recognized in the income statement for all interest bearing instruments on an accrual basis unless collectability is doubtful.

(g) Taxation

No provision has been made for taxation, as the Commission is tax exempt under Section 51 of the Fair Competition Act as provided for by Section 12(l) of the Income Tax Act of Jamaica.

4. PENSION SCHEME

The Commission operates a contributory pension scheme for its employees, with benefits based on the employees' earnings during recognized service. The Fund balance as at March 31, 2015 was \$99,352,422.59 (2014 \$88,403,318.62).

5. FINANCIAL AND CAPITAL RISK MANAGEMENT

The Commission's activities expose it to a variety of financial risks: market risks (including price risk and currency risk), interest rate risk, credit risk, liquidity risk, and operational risk. The Commission's overall risk management policies are established to identify and analyze the risk of exposure, and to set appropriate risk limits and controls to monitor risk and adherence to limits. The risk management framework is based on guidelines set by the Commissioners together with management and seeks to minimize potential adverse effects on the Commission's financial performance.

(i) Price Risk

Price risk is the risk that the value of the financial instrument will fluctuate as a result of changes in market prices. The Commission mitigates against this risk by assigning a mark-up of ten percent for inflation in the budget. However, when there is a shortfall in the budget the Commission institutes measures to address such shortfall.

(ii) Currency Risk

Currency risk is the risk that the value of a financial instrument will fluctuate because of changes in foreign exchange rates. The Commission manages its foreign exchange risk by holding foreign currency bank accounts in reputable financial institutions.

(iii) Interest Rate Risk

Interest rate risk is that the value of a financial instrument will fluctuate due to changes in market interest rates. The Commission has no significant interest bearing assets or liabilities, income and operating cash flows are substantially independent of changes in market interest rates. The Commission's interest rate risk arises from deposits.

(iv) Credit Risk

Credit risk is the risk that one party to a financial instrument will fail to discharge an obligation and cause the other party to incur a financial loss. The Commission has limited concentrations of credit risk. This risk is managed through adherence to staff loans and advances policy as well as maintaining good relationship with suppliers.

(v) Liquidity Risk

Liquidity risk is the risk that an organization will encounter difficulty in raising funds to meet its commitments associated with financial instruments. The Commission manages this risk by keeping committed credit lines available.

(vi) Capital Risk

Capital risk is the risk that the Commission fails to comply with mandated regulatory requirements resulting in breach of those requirements. The Commission's objectives when managing capital are to comply with capital requirements, safeguard the Commission's ability to continue as a going concern and maintain a strong capital base to support the development of its business.

(vii) Operational Risk

Operational risk is the risk of direct or indirect, loss arising from a variety of causes associated with the Commission's processes, personnel, technology and other external factors, other than financial risks. The Commission manages operational risk to avoid financial loss and damage to its reputation by adhering to good corporate governance practices.

For the year ended March 31, 2015	31, 2015					
6. PROPERTY, PLANT AND EQUIPMENT	AND EQUIPMENT					
	USAID Furniture, Fixtures & Equipment	GOJ Motor Vehicles	GOJ Office Furniture	GOJ Fixtures & Fittings	GOJ Computers	Total
	₩.	₩	₩	€	69 -	€9-
At Cost or Valuation April 1, 2014	876,678	1,640,861	1,019,090	4,597,963	11,578,012	19,712,604
Additions	- 276 678	1 640 861	64,227	4 507 063	27,960 1.605.972	92,187 19.804.791
Depreciation						
April 1, 2014	876,678	1,640,861	862,869	2,260,918	10,524,631	16,165,957
Charge for year Closing Balance	876,678	1,640,861	21,489 884,358	357,191 2,618,109	197,376 10,722,007	576,056 16,742,013
Net Book Value March 31, 2015			198,959	1,979,854	883,965	3,062,778
March 31, 2014			156,221	2,337,045	1,053,381	3,546,647

Fair Trading Commission Notes to the Financial Statements For the year ended March 31, 2015

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7. RECEIVABLES AND PREPAYMENTS

	2015 \$	2014 \$
Suppliers	84,785	-
GCT Refund	575,250	487,234
Salary Advance	60,000	40,600
Withholding Tax on C.O.D.	542,574	527,477
Staff Lunch Exp. March 2015	51,375	-
Other receivables	111,315	111,315
Interest Receivables-C.O.D.	-	1,346
Prepayment	2,890,313	78,314
	4,315,612	1,246,286

8. CASH AND CASH EQUIVALENTS

	2015	2014
	\$	\$
Sagicor Bank-US\$ A/C	19,855	249,425
Sagicor Bank-Current A/C	32,320	-
Short term investment	-	1,188,212
Petty Cash	6,000	6,000
	58,175	1,443,637

9. ACCOUNTS PAYABLE

	2015	2014
	\$	\$
Electricity	316,533	340,226
Rental of Office space	2,973,562	1,908,411
Audit Fees	1,021,536	851,280
Other Payables	746,275	844,609
GCT Withheld Ots. FY 14/15	450,740	-
Current Account		1,709,781
	5,508,646	5,654,307

The amount of \$1,021,536 (2014 - \$851,280) represents unpaid Audit Fees from March 31, 2010 to March 31, 2015

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CURRENT LIABILITIES (CONT'D)

10. STATUTORY DEDUCTIONS

	2015	2014
	\$	\$
Statutory Deduction Owed by FTC	1,593,919	1,440,757
Statutory Deduction Owed by Ministry	1,532,990	1,494,394
Interest & Penalty on Statutory Deduction (12) _	1,713,883	13,894,298
	4,840,792	16,829,449

11. OTHER PAYABLES

	2015	2014
	\$	\$
Vacation Leave Pay	3,662,898	3,930,753
Outstanding Retro Salaries		3,017,068
	3,662,898	6,947,821

12. WRITE OFF OF PAYABLES - DEBT FORGIVENESS

Section 47A (4) of the Tax Collection Act enables The Minister of Finance to waive taxes. In keeping with this Act, the Tax Collection (Approved Write-Off) (Public Debt) Order, 2014 was issued. This instrument granted the Commission a waiver of \$12,180,415 for outstanding Education and Income taxes inclusive of interest and penalties. The amount has been recognized as income in accordance with IPSAS 23 – *Revenue from Non-Exchange Transactions*, Paragraphs 84 to 88 - *Debt Forgiveness*.

13. COMPENSATION OF EMPLOYEES

	2015	2014
	\$	\$
Salaries	48,460,627	50,154,191
Salaries (Temp) & Wages	1,469,116	1,039,448
Clothing & Robing Allowance	44,460	44,460
Meal Allowance	279,932	321,210
Overtime	216,343	290,646
Staff Welfare	331,390	177,900
Health & Life Insurance	2,453,929	1,729,312
Pension Contribution	2,072,537	1,807,298
	55,328,334	55,564,465

14. TRAVELLING AND TRANSPORTATION

	2015	2014
	\$	\$
Motor Vehicle Allowances	7,183,571	7,228,568
Cab Fare	500	1,500
	7,184,071	7,230,068

15. PREMISES RELATED EXPENSES

	2015	2014
	\$	\$
Rental & Maintenance of Building	8,547,119	10,405,420
Other Rental	141,900	104,800
	8,689,019	10,510,220

16. PUBLIC UTILITIES

	2015	2014
	\$	\$
Electricity	1,919,608	1,714,720
Telephone & Fax	1,258,174	1,044,529
	3,177,782	2,759,249

17. GOODS AND SERVICES

	2015	2014
	\$	\$
Professional Services		
Auditing	178,331	851,280
Advertising & Public Relation	1,091,395	956,499
Consultancy	15,000	820,052
Consulting (Legal Fees)	73,400	125,250
Stipend (Commissioners)	1,590,000	1,590,000
	2,948,126	4,343,081
Office & General Expenses		
Drugs & First Aid	14,214	12,976
Text & Reference Books	400	-
Food & Drink	261,840	200,040
Printing and Stationery	423,218	572,677
Postal & Cable	81,034	75,489
Subscriptions	79,818	88,909
Repairs & Maintenance	202,937	93,454
Computer Software Expenses	46,696	280,388
Insurance	189,108	181,735
Gift	8,500	-
GCT	450,740	-
Sundry expenses		44,539
	1,758,505	1,550,207
Motor vehicle expenses		
Petrol & Oil	241,017	230,941
Repair & Maintenance-Motor Veh.	75,482	303,219
	316,499	534,160
Miscellaneous Expenses		
Cleaning & Sanitation, Gifts	149,602	127,495
	5,172,732	6,554,943

18. BANK CHARGES

	2015	2014
	\$	\$
Sagicor US\$ Account	588	4,761
Sagicor JA\$ Account	114,346	100,612
	114.934	105.373

19. PROJECT EXPENDITURE

	2015	2014
	\$	\$
Competition Law Courses	262,966	237,273
Consultancy Service	-	241,569
ISO Certification	<u> </u>	180,000
	262,966	658,842