



**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 matters arising during the period October 1 through December 31, 2020.*

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## Minister of State visits FTC

On December 7, 2020, the Minister of State in the Ministry of Industry Investment & Commerce, Hon. Dr. Norman Dunn, paid a courtesy call on the Staff of the FTC to discuss several strategic priority areas. Dr. Dunn was appointed Minister of State in September 2020. The management team headed by David Miller, Executive Director, described several of the FTC's significant achievements over the years, as well as current activities under investigation and market studies on several sectors. Among the areas discussed were the need for improved competitiveness in the telecoms sector and resolving connectivity issues experienced by consumers; strengthening the regulatory framework of the cooking gas market; and the importance of having a pre-merger notification regime for Jamaica.

## FTC host 18<sup>th</sup> annual Shirley Playfair Lecture

The FTC hosted the 18<sup>th</sup> annual Shirley Playfair Lecture on November 26, 2020, under the theme "Protecting Competitive Markets and Consumer Welfare during and Post COVID-19 Pandemic." A panel comprising Professor Frédéric Jenny, Chairman of the Competition Committee at the Organisation for Economic Cooperation and Development (OECD) and Ms. Jeanne Pratt, Senior Deputy Commissioner at the Competition Bureau in Canada discussed the measures implemented by competition authorities in response to the perceived threat posed by the pandemic as well as the relevance of competition law to the protection of consumer welfare.

The discussion was moderated by Kevin Harriott, Competition Bureau Chief of the FTC. The full report on the lecture is available at [www.jftc.gov.jm](http://www.jftc.gov.jm).

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

In September 2020, the FTC completed its assessment of competition in the mobile telecommunication market. The study was conducted pursuant to a request made by the Spectrum Management Authority (“SMA”). The SMA was in the process of reviewing its Spectrum Cap Policy, a tool it uses to drive and safeguard competition in the telecommunications industry. The review was to assist the SMA to determine whether the cap was still needed to safeguard competition. The FTC contributed to the review by assessing the level of competition within the sector and by making recommendations on the Spectrum Cap Policy.

The main finding of the study is that the market is competitive; however, in the absence of easy conditions of entry, competition in the market is susceptible to coordinated conduct. Additionally, the anticipated increased demand for mobile telecommunication services stemming from the COVID-19 pandemic could make it increasingly difficult for future entry to occur, if the mobile spectrum is not properly managed. Accordingly, the SMA is tasked with striking the appropriate balance between preserving future entry, and allowing incumbents to meet the increased demand for mobile telecommunication services.

To strike the balance, the FTC recommends that the spectrum cap be replaced with a spectrum screen. Specifically, spectrum should be assigned to each operator in the customary manner up to the assignment of 33 per cent of the assignable spectrum. Requests for assignment between 33 per cent and 37 per cent should be approved by the SMA on a case by case basis. The current cap is 30 per cent. Additionally, the Minister with responsibility for Telecommunications should consider implementing the recommended revisions to the pricing of spectrum in Jamaica.

On November 6, 2020, the SMA issued a Proposed Spectrum Holding Policy document, which incorporated the findings and recommendations of the FTC's. Stakeholders have since provided feedback which has been addressed by the SMA and the FTC. The consultation is ongoing.

## **Market study into the communications sector**

In November 2020, the FTC opened a market study into the communication sector to determine the competitive effects of wholesale agreements between Internet service providers (ISP) and subscriber television (cable TV) operators who provide Internet services to final consumers. The FTC will review, among other things, the terms and conditions under which enterprise broadband ISPs offer services to cable TV operators and assess whether and the extent to which these agreements adversely affect cable TV operators' service to consumers. The study is slated to conclude in March 2021.

## **FTC delivers presentation to the Development Bank of Jamaica**

In continuing with its advocacy efforts, on October 2, 2020, the FTC delivered a presentation to representatives of the Development Bank of Jamaica under the title “Competition considerations in developing Public-Private Partnerships.” The presenters were David Miller, Executive Director and Kevin Harriott, Competition Bureau Chief. Areas covered include (i) tools to achieve competition objectives; (ii) tools for detecting anti-competitive conduct; (iii) benefits of Public-Private Partnerships (PPPs); (iv) impact of PPPs on Competition; (v) competition issues in previous PPPs; and (vi) competition assessments in government operations.