



**FTCNewsLine** is an online 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 assist businesses and consumers in better identifying issues that may pose competition concerns.

Competition legislation is specific to each jurisdiction, and prohibited activities in one jurisdiction are not necessarily prohibited in other jurisdictions. For information on the prohibitions under Jamaica's competition legislation, the **FAIR COMPETITION ACT (FCA)**, please visit our website at [www.iftc.gov.jm](http://www.iftc.gov.jm).

*In this Issue, we feature matters arising during the period April 1 through June 30, 2021.*

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## Appointment of Commissioners

The Minister of Industry, Investment & Commerce has appointed the Commissioners of the Fair Trading Commission for the period March 15, 2021, to March 14, 2023. The appointees are Mr. Donovan White, Director of Tourism; Mr. Robert Collie, Attorney-at-Law; Mr. Stuart Andrade, Financial Analyst; Ms. Dorothy Lightbourne, Attorney-at-Law; and Mrs. Suzanne Ffolkes-Goldson, Attorney-at-Law.

Mr. White has been appointed to serve as Chairman and Mr. Collie as the Deputy Chairman. In addition, both Mr. White and Mrs. Ffolkes-Goldson are serving for the first time as Commissioners, while Ms. Lightbourne, Mr. Collie, and Mr. Andrade were reappointed.

The Management and Staff of the FTC welcome the new Commission and look forward to a fruitful working experience as we continue to promote competitive markets.

## FTC completes study on the audit services market

In April 2021, the FTC completed an exploratory study on competition in Jamaica's audit services market. Using data from companies listed on the Jamaica Stock Exchange (JSE), the study examined competition for auditing services in this sub-market with a focus on two areas: (i) trends in market concentration over the period 2013-2018; and (ii) the extent to which companies switch auditors. Over the review period, the sub-market was persistently highly concentrated, with two auditing firms consistently generating over 90 percent of the audit fees paid by companies listed on the JSE. The results show that the companies listed on the JSE rarely switched away from those two auditing firms. However, the FTC found four instances

where companies switch away from other auditors to the main two. The FTC concluded that further research was required to understand the cause of this persistently high concentration within the sub-market.

The FTC has shared the results of the study with audit firms in Jamaica.

### **Investigation into the termination of Agent Agreements by Supreme Ventures Limited**

Having received several complaints against Supreme Ventures Limited ('SVL') regarding SVL's termination of the Full-Service Agent Agreement with retail agents, the FTC commenced an investigation into the matter in May 2021. The Agreement permits agents to sell lottery tickets and engage in other transactions on SVL's behalf. The complaints allege that SVL terminated the Agreements because the agents started to sell the products of SVL's competitors.

The investigation is being conducted under sections 19-21 of the Fair Competition Act ('FCA'), which prohibits enterprises occupying a dominant position from engaging in conduct that has had, is having, or is likely to have the effect of lessening competition substantially in any market.

### **FTC concludes assessment of JAMECO Equipment Company's acquisition of AMECO Caribbean**

In April 2021, the FTC completed its assessment of the acquisition of AMECO Caribbean Inc. by JAMECO Equipment Company Limited. The acquisition initially raised concern for competition in the markets for (i) fleet management; (ii) sale of commercial equipment/vehicles; and (iii) lease of commercial equipment/vehicles in Jamaica. Accordingly, the FTC concluded that the Asset Sales Agreement breached section 17 of the FCA, which prohibits agreements that contain provisions that have as their purpose the substantial lessening of competition or are likely to have the effect of substantially lessening competition in a market.

The FTC determined that the Agreement which effected the acquisition contained a restraint of trade provision, which has as its purpose the substantial lessening of competition in the relevant market and which did not qualify for exemptions under the FCA. The FTC, therefore, recommended that the restraint of trade clause be limited to no more than three years to not be in breach of the FCA.

On May 7, 2021, JAMECO and AMECO entered a Settlement Agreement and Release ("the Release"). The Release discharged JAMECO and AMECO of some of their obligations, as outlined in the Asset Sales Agreement, including the restraint of trade provision.

Accordingly, the FTC revised its conclusion in light of the Settlement Agreement & Release; as the revised Asset Sale Agreement does not breach any provisions of the FCA.

## **FTC completes review of the policy on financial institutions on the early repayment of loans**

On April 1, 2021, the FTC released the findings of its review of microfinance institutions (MFIs), commercial banks, and credit unions regarding the early repayment of personal loans. The review was prompted by complaints alleging that MFIs were demanding that the full interest be paid on loans completely repaid before the maturity date. Additionally, complainants alleged that MFIs charged an additional amount for borrowers who complete repayment of their loans before the maturity date.

The FTC sought to determine whether financial institutions adequately disclosed their policy on early repayment of loans to borrowers. The FTC found that a few of the banks and credit unions disclose information on their websites; however, none of the MFIs in the study had information on their websites. Based on a telephone survey, almost two-thirds of the MFIs included in the study, all commercial banks, and half of the credit unions indicated that they communicated their early repayment policy to borrowers at the start of the loan process. Further, just over a quarter of both MFIs and credit unions indicated that the information was provided if the client specifically asked.

The information garnered from the study suggests that MFIs which are members of the Jamaica Association of Micro-Financing (JAMFIN), generally inform consumers of their early repayment policy at the start of the loan process. (Note: this finding cannot be generalized to MFIs in the wider market)

## **FTC and CAC to benefit from Enterprise Content Management System**

Under Jamaica's Foundation for Competitiveness and Growth Project, LPA Corporate Solutions Limited (LPA), a software developer, has been contracted to create a customized enterprise content management system (ECMS), for use by the FTC and the Consumer Affairs Commission (CAC). In May 2021, LPA submitted its second of ten deliverables, the System Design Specifications Report, which provides an overview of the key components and user interfaces of the ECMS.

The ECMS will assist the FTC and the CAC in managing and controlling information and streamlining business processes to increase productivity and efficiencies. It will bring all information together in a systematic way that helps users to make decisions faster. In particular, the ECMS will capture and store information and data of varying nature in formats that allow for ease of retrieval, sharing, and manipulation. The content to be managed by the system includes information and data relating to complaints, cases, studies, reports, surveys, statistics, communications with other Ministries, Departments and Agencies, and administrative and operational functions of the FTC and the CAC.