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

*In this Issue, we feature matters arising during the period October 1, 2021 to December 31, 2021.*

## FTC enhancing its productivity



For the upcoming Financial Year 2022/2023, the FTC has developed initiatives and, in some instances, will enhance existing initiatives to become more effective and efficient in achieving its mandate. The three primary initiatives involve the development of an electronic document system, enhanced Staff productivity and monitoring system, and a targeted approach to stakeholder engagement.

It is expected that the initiatives will lead to increased productivity through (i) more streamlined work processes; (ii) increased institutional memory and faster information retrieval; (iii) shorter completion time of investigations and market studies; and (vi) strengthened competition culture.

## Consultation in the Petroleum Sector



In November 2021, the FTC participated in the first meeting of the Ministry of Science, Energy and Technology's (MSET) Petroleum Tanker Driver Joint Working Group, whose primary objective is to make recommendations for improvements in employment conditions including tanker drivers' wages. In 2020, the FTC had recommended that haulage contractor rates

be regulated to allow haulage contractors to bear the costs of all safety requirements, insurance, and other operational costs, as well as to be fully tax compliant.

Concerns were raised about whether the Fair Competition Act (FCA) imposes any restrictions that would prevent the joint negotiations on tanker drivers' wages and employment conditions. The group was assured that the FCA does not apply to arrangements for collective bargaining on behalf of employers and employees for the purpose of fixing terms and conditions of employment.

## FTC issues guidelines for the nursing homes sector



Having completed its study of the nursing homes sector, the FTC has developed guidelines for consumers to consider when contracting the services of nursing homes in Jamaica. Consumers are guided to verify the registration status of nursing homes with the Ministry of Health and Wellness (MHW), do comparative shopping and obtain all relevant information about a nursing home before selection. Further, it is important to visit the homes being considered. Like the purchase

of any other service, consumers are urged to obtain a written contract that sets out the terms and conditions, including price, of using a nursing home.

From its study, the FTC found that there is difficulty for individuals to obtain relevant information to assess the desirability of a given nursing home and that there appears to be inadequate resources to monitor nursing homes which have implications for the efficient functioning of the sector. Accordingly, the FTC has recommended to the Ministry of Health and Wellness that it should be mandatory for nursing homes to provide certain information to the public, such as its registration status, contractual obligations, cost of service and a description of its facilities and

service offerings. Also, the MHW should strengthen its functions, allocate more resources to its Institutions and Facilities Unit, which has responsibility for monitoring nursing home performance. The Consumer Guidelines for Selecting a Nursing Home can be accessed at [www.jftc.gov.jm](http://www.jftc.gov.jm).

### FTC Issues Consumer Online Shopping Guide



On December 13, 2021, the FTC issued a press advisory to consumers alerting them to five guidelines to consider when engaged in online shopping. The FTC advised consumers to (i) Search for information about the merchant; (ii) Check that the website is secure; (iii) Check terms and conditions carefully; (iv) Ask questions about refund policy; and (v) Keep records of all documents relating to the transaction.

The full guidelines can be accessed at [www.jftc.gov.jm](http://www.jftc.gov.jm).

### FTC found no concern with merger in insurance broker market



Concerning the merger of MGI (Insurance Brokers) Limited (MGI) and Billy Craig Insurance Brokers (BCIB), the FTC reviewed the transaction under section 17 of the Fair Competition Act and concluded that it raises no competition concerns.

The relevant market was defined as the market for insurance brokerage services, and it was concluded that the Agreement was unlikely to have the effect of substantially lessening competition since it would not remove any significant competitive restraint in the market. The market includes several brokers which could offer a significant competitive restraint in the foreseeable future.

The full report can be accessed at [www.jftc.gov.jm](http://www.jftc.gov.jm).

## FTC Hosted 19<sup>th</sup> Shirley Playfair Lecture



In light of the pending merger between the FTC and Consumer Affairs Commission (CAC), the FTC hosted its 19<sup>th</sup> Annual Shirley Playfair Lecture under the theme “Integrating Competition Law and Consumer Protection Law: Optimizing Consumer Welfare.” Mr. Stephen Calkins, Professor of Law from the Wayne State University, delivered the Lecture where he highlighted the benefits that can be had from merging the two agencies, in terms of marketing, the ability of a single authority to look at both sides (competition and consumer protection) given that the distinction between competition and consumer protection is often blurred, and the acquiring and developing of skills and tools that are applicable to both areas.

Mr. Calkins concluded by identifying three goals of the practicality of merging: (1) Maximise the net benefit of the inevitable disruption. (2) Respect - for people, traditions, values, and perspectives. (3) Retain and attract good people.



### INTERNATIONAL COMPETITION NEWS

In the United States of America, a civil action has been brought under section 7 of the Clayton Act to stop United States Sugar Corporation (“U.S. Sugar”) from acquiring its rival sugar refiner, Imperial Sugar Company (“Imperial”). U.S. Sugar is a member and owner of United Sugars Corporation (“United”), a cooperative that sells—and sets the prices for—all the sugar produced by U.S. Sugar and three other sugar refiners. According to the suit, “if U.S. Sugar is allowed to acquire Imperial and to fold Imperial’s production into the United cooperative, United and just one other company, American Sugar Refining, would account for nearly 75 percent of sugar sales across the Southeast, leaving wholesale customers in this region at the mercy of a cozy duopoly”.

Competition from Imperial causes United to lower prices. Competition from Imperial also causes United to improve delivery reliability, which is a crucial factor for food manufacturers and grocery stores that depend on a robust supply chain to run their businesses. The merger of two direct competitors that will result in a highly concentrated market and lead to higher prices for sugar.