



CAC/FTC PRESS BRIEFING

February 24, 2022

Mr. David Miller, Executive Director

Speaking Notes

The Fair Trading Commission (FTC) operates on the premise that competitive markets are central to efficiency, innovation, investment, and economic growth. The FTC's core values of professionalism, confidentiality, transparency, independence, and impartiality are critical to its effectiveness and are a hallmark of its work.

In conducting investigations and undertaking market studies, the FTC uses international best practices which require all relevant stakeholders' involvement in the processes. That is, the party being investigated, other market participants at all levels of the supply chain, as well as consumers. The FTC's conclusions are based on empirical evidence – actual data and verifiable information.

Today, the FTC's message will cover 3 topics:

- a. A summary of the sectors that we have investigated or where we have made competition advocacy interventions during the past six months.
- b. FTC Guidelines to Reviewing Mergers, Acquisitions & Joint Ventures – this is of interest to business enterprises.
- c. Work on strengthening internal work processes for increasing organizational efficiencies.

The FTC focusses on those sectors and markets that are most impactful on the recovery of the economy. Accordingly, we prioritize areas such as construction, energy and electricity, telecommunications, finance and online/e-commerce facilities.

In keeping with our mandate and focus, this year (Financial Year 2021/2022) we completed four merger investigations, one in the vehicles fleet management market, another in the market for insurance brokerage services, the third one was in the beverages market, and the fourth, in the market for medical supplies.

We also completed investigations into the abuse of dominant position by Supreme Ventures Limited (SVL), which includes an assessment of pay-outs by SVL; and an investigation into the market for online voucher platform services for lifestyle products and services sold in Jamaica.

Concerning the latter investigation, merchants promote their products and services online through a platform owner. We concluded that the agreement between a particular platform owner and merchants contained exclusive provisions that were likely in breach of the Fair Competition Act. The FTC has been in discussion with the platform owner and it is expected that a resolution will be arrived at in short order. Changes in the agreement will allow for other market participants to compete more effectively for merchants, in so doing bring more choices and competitive prices to consumers.

During the past 6 months we engaged in several Competition advocacy activities. The notable ones were our work with the Ministry of Science Energy & Technology on two areas relating to the petroleum sector; and another issue in the energy sector.

Our examination of the Electricity Act concluded that although there are no competition concerns with the Act, areas within the All-Island Electricity Licence (2016) granted to the Jamaica Public Service Company (JPS) may raise competition concerns and therefore we will be examining the License in the upcoming Financial Year.

Concerning the telecommunications sector, we continued work with the Spectrum Management Authority (SMA) through a Public Consultation exercise regarding the implementation of a screening mechanism for assignment of mobile spectrum beyond a threshold level.

The FTC completed assessments of competitive concerns arising from the Electronic Transactions Act; the Land Surveyors Act; and we submitted a proposal to amend the Financial Services Commission Act to address information sharing between the FSC and the FTC.

We completed Market Studies on Competition in Auditing Services and the Nursing and care home sector. Nursing homes provide services to a vulnerable segment of society and the study included recommendations that were made to the Ministry of Health & Wellness for having a more robust regulatory framework for the sector.

The recommendations to improve Nursing Homes' operations and increase value to consumers are: (i) The MoHW should provide adequate resources to their Institutions and Facilities Unit to carry out its functions; (ii) Information regarding complaints procedure and redress system should be more readily available to the public; and (iii) It should be mandatory for nursing homes to provide certain information to the public.

Additionally, the Staff published Consumer Guidelines for selecting a Nursing Home, and also issued Consumer Guidelines for Online Shopping.

The Studies and Guidelines are posted on the FTC's website, located at www.jftc.gov.jm.

We are nearing completion on Market Studies on Digital payment systems (an area within the financial sector) and another into the Wholesale Supply of Broadband Services in the Telecommunications Industry.

The Second area for today's Briefing is the FTC publishing its Guidelines to Reviewing Mergers, Acquisitions & Joint Ventures

The Guidelines are targeted at business enterprises, and it briefly explains the internal process used by the Staff when assessing Mergers, Acquisitions, and Joint Ventures.

The FTC may review a merger whether or not it has been advised beforehand. Consequently, there may be risks for enterprises if parties fail to notify the FTC of their intention to merge. Therefore, the Guidelines provide greater certainty to business enterprises undertaking such transactions.

These Guidelines are based on international best practices and are modeled off Guidelines used in other jurisdictions, including the United States Horizontal Merger Guidelines and the ICN's Model Guidelines.

The Guidelines:

- Defines the transactions that are examinable under the Fair Competition Act (S. 17). The FTC has a responsibility to review merger activities and may investigate, on its own initiative, mergers that it has not been notified about.
- Describe the internal process undertaken, including the estimated time for completing the assessment.
- Describe the critical issues that are examined when the FTC conducts assessments. e.g., relevant market; will the merger likely substantially lessen competition?; what efficiencies will the merger create for the market?; what other benefits or drawbacks will the merger bring to the market, the economy, and consumers as a whole?

The Guidelines will be made available on our website.

The last area being discussed today is our continuous work on Strengthening Internal Processes

In the upcoming Financial Year (2022/2023) the FTC will be launching its new Case Administration Document System (CADS), which is a customized Electronic Case & Document Management System that includes an electronic library of cases, reports, presentations, and documents. It also improves the interface and communication channel between informants and the Staff.

We will engage in continued Staff training and development to improve Staff competence in sectors of importance to Jamaica's economy, so that we are able to

- Detect and address anticompetitive practices early
- Provide advice to regulators and policymakers on competition matters

In closing, I thank my Staff for their continued dedication and commitment to improving Jamaica's competition culture and enforcing competition law in Jamaica. And I thank our parent Ministry, the Ministry of Industry Investment & Commerce for its continuous support and in facilitating our work.

Thank you.