FTCNewsLine

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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.

In this Issue, we feature matters arising during the period January 1, 2022, to March 31, 2022.

FTC enters Consent Agreement with Gustazos

In March 2022, the FTC entered into a Consent Agreement with Jamaica Holding, LLC (trading as Gustazos), having completed its investigation into the competition effect of agreements between Gustazos and merchants of lifestyle goods and services. The FTC pursued the investigation under sections 19-21 of the Fair Competition Act, which address the abuse of a dominant position.

The FTC's investigation concluded that the protracted duration of the exclusivity contained in the merchant agreements negatively impacted the market for online voucher platform services for lifestyle goods and services, and therefore was likely to substantially lessen competition in the relevant market.

To remedy the situation, the Consent Agreement requires that Gustazos change several provisions in its agreements with merchants. These changes will allow for other market participants to compete more effectively for merchants, and in so doing bring more choices and competitive prices to consumers. The Consent Agreement also requires that Gustazos pay costs to the FTC, in the amount of JA $899,000.

FTC raises competition concerns with Supreme Ventures Limited's conduct in the lottery market

In February 2022, the FTC concluded its investigation into the effect of Supreme Ventures Limited's channel and business realignment strategy as well as its action of seeking approval for ex ante unprofitable pay-out odds. The FTC investigated SVL's conduct under sections 19-21 of the Fair Competition Act (FCA) to determine whether the gaming company's conduct is likely to result in a substantial lessening of competition in the lottery market. Arising from entry in February 2021, the lottery market transitioned from a monopoly to a triopoly market structure.

The FTC's assessment shows that the channel and business realignment strategy, which included strategic termination of agents' agreements, raises significant competition concerns and is likely in breach of the abuse of dominance provisions of the FCA. The likely effect of the conduct includes the raising of rival's costs, discouraging entry, and the reduction of consumer choice of the variety of games accessible to players at a given retailer location.

This matter is being pursued as a possible breach of the FCA.

FTC issues Guidelines for assessing mergers and acquisitions

To provide guidance and certainity to businesses when undertaking mergers and acquisitions (M&A), the FTC has published guidelines setting out how it assesses such transactions, pursuant to section 17 of the Fair Competition Act (FCA). Section 17 prohibits agreements that have as their purpose the substantial lessening of competition or have or are likely to have the effect of substantially lessening competition.

The Guidelines, which are based on international best practices, serve to ensure that the assessment process is transparent, objective, inclusive, and consistent. The provision of greater certainty to business enterprises undertaking M&A transactions is a vital role of the FTC.

The Guidelines define the transactions that are examinable under the FCA. The FTC has a responsibility to review M&A transactions and may investigate, on its initiative, transactions that it has not been notified about. Additionally, the Guidelines describe the internal process undertaken, including the estimated time for completing the assessment as well as the critical issues that are examined for the relevant market.

The FTC seeks to prevent only those transactions that are likely to reduce competition and lead to higher prices, lower quality goods or services, or less innovation.

The Guidelines are available on the FTC's website at https://jftc.gov.jm/publications/advisories/.

INTERNATIONAL COMPETITION NEWS

Korean Fair Trade Commission slaps poultry cartel with €129M fine

The South Korean antitrust authority decided to levy a combined fine of €129M on fifteen poultry-processing companies. The accused companies have been charged with collusion for their involvement in a price-fixing scheme. Sixteen companies, inclusive of industry leaders, were found to collude in 45 instances between November 2004 and July 2017. One of the companies was not fined by the Korean Fair Trade Commission (KFTC) because it applied for a court receivership.

The colluding companies held a combined share of more than 77 per cent the relevant market. This presented the opportunity for these companies to manipulate prices fearlessly. The KFTC's analysis confirmed that the 12-year-long price fixing agreement resulted in a hike in the price of chicken, directly hurting customers' pockets.

The KFTC said it will take stern actions with a zero tolerance stance against companies whose price collusion affects basic food item thereby significantly impacting consumers.

Source: www.competitionpolicyinternational.com – March 16, 2022