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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.iftc.gov.jm](http://www.iftc.gov.jm).

*In this Issue, we feature matters arising during the period October 1, 2022, to December 31, 2022.*

## FTC clears Desnoes & Geddes Limited Full-for-Empty policy



The FTC completed its investigation into the Desnoes & Geddes (D&G) full-for-empties policy, that required retailers of its bottled beverages to return empty bottles in order to replenish their stock of D&G products. Some retailers were exempted from the policy.

The FTC concluded that although D&G occupies a dominant position in the bottled beverages market, it was not abusing its dominant position. It was concluded that the policy improves the distribution of bottled beverages, consumers benefitted by being able to have a steady supply of these beverages, and importantly the policy does not lead to a reduction in intra-brand competition among retailers of D&G products.

The investigation stemmed from complaints from retailers, who claimed that the policy applied to only some retailers and exempted others, consequently putting the exempted retailers at an unfair competitive advantage. It was found that the retailers included in the policy accounted for more than 95

percent of the returnable bottles used by D&G. Further the intensity of competition among the retailers included in the policy is likely to be stronger than competition between the included retailers and the exempted retailers. Consequently, it is unlikely that the exclusion of some retailers would significantly lessen competition among retailers.

Subsequent to the completion of the investigation, D&G changed the full-for-empty policy to make it applicable to all retailers.

### **FTC assesses Liquefied Petroleum Gas and Industrial Medical Gas Markets**



To gain insight into the competitive conditions of the markets for liquefied petroleum gas (LPG) and industrial and medical gas (IMG) markets the FTC carried out an assessment of the market structure and regulatory framework that governs the markets.

For the LPG market it was found to be highly concentrated, with the two largest wholesale suppliers accounting for over 70 percent of supplies by volume, and four suppliers accounting for 30 percent. Another three businesses have obtained licences to operate in the market. While entry conditions appear to be favourable, there are restrictions on expansion mainly brought about by the limitations in the informal cylinder exchange system. The Ministry of Science Energy & Technology is presently engaging the industry with a view to, among other things, establishing a formal cylinder exchange arrangement for all suppliers.

The market for IMG is supplied primarily by one manufacturer and distributor, with the scope for competition from importation.

With the proposed acquisition involving the two leading suppliers of LPG(Massy Holding Limited and Industrial Gas Limited), the FTC is carrying out a more comprehensive assessment of the market to determine whether the transaction will result in a substantial lessening of competition, and therefore breach section 17 of the FCA.

## FTC assesses acquisition in agro-processing sector



The FTC completed an assessment of Spur Tree Jamaica Limited's acquisition of Canco Limited to determine whether the acquisition would result in a substantial lessening of competition. It was ascertained that both companies are in the agro-processing sector, and the substitutable products sold by both companies are canned ackee and canned callaloo.

Further, Spur Trees sells canned ackee and canned callaloo exclusively in export markets, Canco sells about 10 per cent of its production in Jamaica. Given that the markets in which the companies distribute their products are outside of Jamaica, and that there are several large agro-processors of ackee and callaloo, the FTC concluded that the acquisition is unlikely to adversely affect competition in any market in Jamaica and therefore it is unlikely to breach section 17 of the FCA.

## FTC assesses proposed Air Service Agreements



Upon a request from the Ministry of Transport & Mining (MTM), the FTC assessed proposed Air Services Agreements between the Government of Jamaica and the Governments of the Republic of Cyprus and

the Netherlands, to determine whether any competition concerns should be addressed. Although the FTC found no competition concerns in the agreement, it was noted that the Agreements bind the contracting parties to the Fair Competition Act and specifically speak to conduct such as discrimination and practices that would adversely affect each party.

The FTC also reviewed the Proposed Provisions for Essential Air Service & Subsidies to determine whether any competition concerns should be addressed. Again, no competition concerns were identified. However, the FTC pointed out an inconsistency in the drafting of the provisions that speak to dispute settlement procedures.



## **INTERNATIONAL COMPETITION NEWS**

### **Updates to the Eye Glass Rule**

The United States Federal Trade Commission (USFTC) has advocated for a potential update to the Eyeglass Rule that they enforce. The Eyeglass Rule currently stipulates that a customer has the right to get their eyeglass prescription from the doctor after their examination has been completed. It also stated that the prescription should be given without having to be requested and at no additional cost. Having a copy of their prescription allows consumers to shop around and get the best deal. However, based on information received from the public, it becomes evident that some doctors are not following the Rule.

As a corrective measure, the USFTC has proposed an addition to the rule where not only will eye doctors be required to get a signed confirmation when prescriptions are released to patients, but will also be required to keep record of that confirmation for a minimum of three years.

The proposed adjustment of the rule would also further benefit consumers by clarifying that proof of insurance coverage is considered payment for services when determining when a prescription must be shared.

Source: [salinapost.com](https://salinapost.com) – December 22, 2022