Compete

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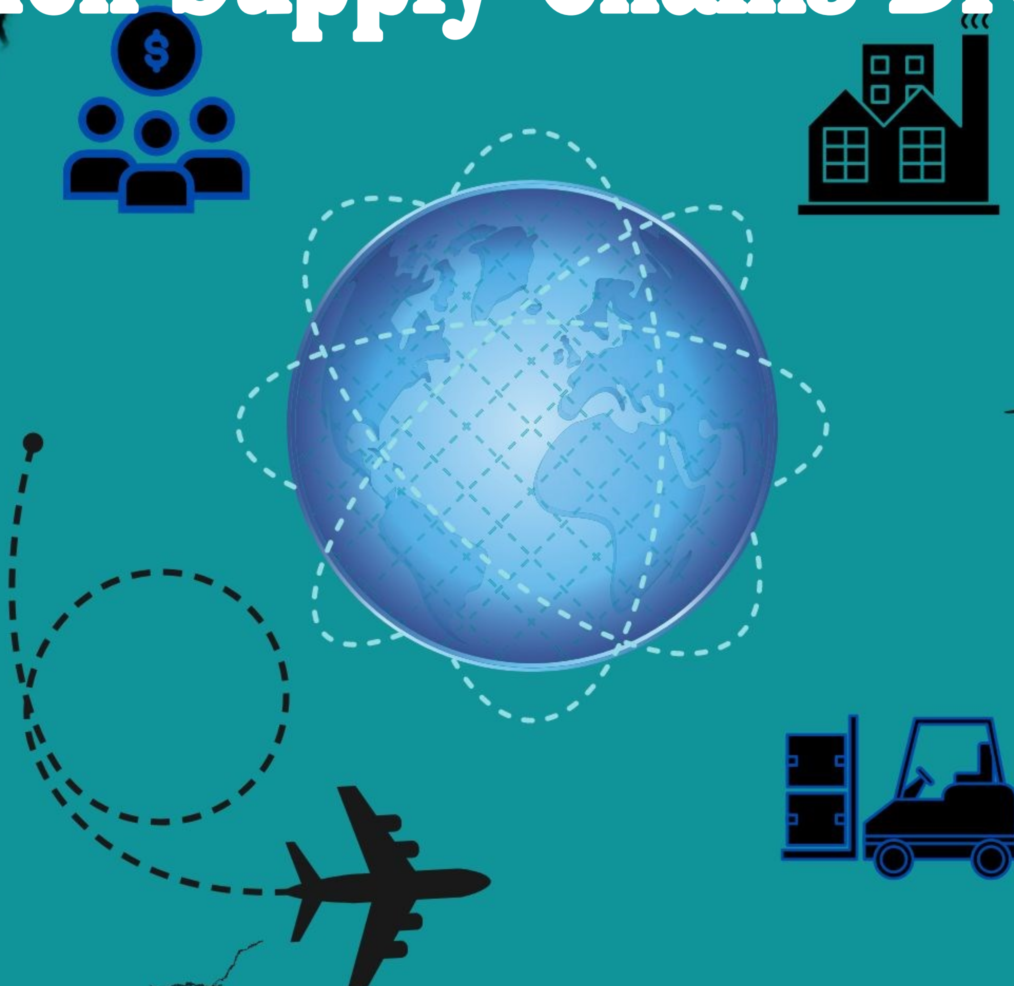
When Supply Chains Break



Fair Trading Commission

Compete

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Foreword

Before the advent of complex logistics networks and the attempts by multinational retailers to ship wares across the globe in ever decreasing timeframes, trade was a domestic activity between neighbours in a closed economy. However, when the prevailing economic paradigm is contemplated, particularly in the face of climbing inflation and uncertainty, it becomes easy to appreciate why an exposition on the global supply of goods and services becomes relevant. This 27th Issue of ***Compete*** casts light on the theme *"When Supply Changes Break"* and explores the holistic impact of supply chain shocks on competition, prices, and consumer welfare.

Since the onset of the novel Coronavirus (COVID-19) pandemic in 2019, the global economic system saw a plunge in real GDP from 3.6% expansion in 2018 to 3% contraction in 2020. Following this conspicuous decline in real GDP growth in 2020 the world is now faced with the present peril of high inflation due to the short-term uptick in economic growth. Notwithstanding all the other theorized causes of the current inflationary pressures, supply chain issues seem to be one of the most crucial identified. Consumers have been feeling the pinch of increasing prices and limited product choices in their daily reality from the limited supply of goods from large-scale wholesale exporting countries such as China due to their Zero-COVID policy, bans on fuel from Russia, Ukraine's limited ability to export agricultural produce, and lags in the movement of cargo and people through ports due to varying quarantine requirements around the world.

Consumers may wonder what policymakers and businesses have put in place to mitigate the adverse supply chain shocks of the global economic system. The 2023 issue of ***Compete*** aims to bridge the gap in awareness among the consumer, the business and the regulator regarding the impact and available remedies for supply chain shocks. Relevant and stimulating articles have been solicited from policymakers and business associations from across the region to delineate issues faced by both parties in addressing the pressing issues mentioned.

We know you will enjoy this edition of ***Compete*** as much as we enjoyed compiling it.

Happy reading!

Alrick Christie

Chairman, Magazine Committee

CONTENTS

Investigations, Market Studies, Advocacy

Articles

Investigations, Market Studies, Advocacy

Mergers & Acquisitions

Over the past year, the FTC received voluntary requests to assess three merger transactions. The first, now completed, involves Spur Tree Spices Jamaica ('Spur Tree') acquiring controlling interest in Canco Limited ('Canco'). Spur Tree Spices Jamaica ('Spur Tree'), distributes wet seasonings, sauces, canned ackee and callaloo. Canco, which trades as Linstead Market, is an agro-processer that distributes canned ackee and canned callaloo. Both companies export over 90 percent of their canned ackee and callaloo. The assessment determined that the relevant market comprised canned callaloo and ackee supplied in geographic areas outside of Jamaica and therefore the acquisition is unlikely to adversely affect competition in any market in Jamaica. Further, there are several major agro-processers in the market. Accordingly, the assessment concluded that Spur Tree's acquisition of majority shareholding in Canco does not raise any significant competition concern, and is unlikely to breach the FCA.

The other two transactions, being assessed are the acquisition of Industrial Gas Limited ('IGL') by Massy Holdings Limited ('Massy') and the amalgamation agreement between PanJam Investment Limited (PanJam) and Jamaica Producers Group Limited (JP).

IGL and Massy are the two largest distributors of liquid petroleum gas (LPG) in Jamaica. IGL also manufactures and distributes industrial and medical gas (IMG), while Massy was an importer and distributer of IMG during the COVID-19 pandemic. The transaction raises significant competition concerns given the market positions of the two parties to the transaction, and role of other smaller competitors. There are at least nine other players in the market for LPG and no other distributor of IMG.

Regarding the Panjam and JP transaction, both parties are conglomerates with share holdings in several companies, and are involved in a diverse line of business including shipping and logistics, food manufacture and distribution and real estate (property development, management, rental, and infrastructure finance).

The FTC will be carrying out in-depth assessments of both transactions to determine if they are likely to significantly impede competition in the relevant markets.

Authority to investigate

Mergers and acquisitions are investigated under section17 of the Fair Competition Act (FCA). Section 17 prohibits agreements which contain provisions that have as their purpose the substantial lessening of competition, or have or likely to have the effect of substantially lessening competition in a market.

Legislative amendment

A major legislative amendment of the FCA is underway to incorporate pre-merger notification provisions. Currently, the FCA does not require merging companies to notify such transactions. A pre-merger notification framework will be beneficial to the business sector by providing certainty in how and when the Competition agency, the FTC, will intervene in assessing those transactions.

A draft bill is completed, and is under review by the Ministry of Industry, Investment and Commerce and the FTC. Once the FCA has been amended, the business sector will be certain as to what transactions should be notified to the FCA.

The FTC carries out market studies to gain a better understanding of the working of a sector and to determine whether there are uncompetitive practices or threats to competition.

Market studies

The following are ongoing studies due to be completed by March 2023.

1. Credit information services:

In March 2022, the FTC initiated a study of the market for personal credit reporting services to identify impediments to entry and expansion in this market. Eliminating such impediments will enhance competition in the market for credit reporting services and ultimately promote competition in the market for personal loans.

Credit reporting service is an important input in the personal loans market. An efficient personal loans market coordinates the pairing of those with excess financial resources with those experiencing a shortfall in financial resources. In particular, proper credit reporting plays the prudent role of assisting lenders to better assess the risk profiles of potential borrowers, especially unfamiliar ones. This will assist the lender to determine whether a loan will be offered, and the terms and conditions under which such a loan is extended.

To assess whether there are any impediments to entry and expansion in the market for personal credit reporting services, the FTC examined the relevant legislation (The Credit Reporting Act 2010) and engaged key stakeholders- namely, the financial sector regulator (the Bank of Jamaica), credit reporting services providers (credit bureaus) and credit information providers (CIPs).

Preliminary findings identified some competition concerns in the legislation arising from the requirements for setting up a credit bureau. Also, there are other concerns around the absence of mandatory disclosure of personal credit information from CIPs to all credit bureaus.

The FTC is scheduled to publish a report in March 2023, documenting the key findings of the study as well as outlining measures proposed to mitigate the potential threats to competition in the market.

2. Port services:

The FTC has carried out an extensive study of the port services sector to gain an insight into the structure, competition dynamics, and the regulatory framework governing the port and the shipping industry in Jamaica. Essentially, the objective of the study is to identify measures policymakers could implement to safeguard competition in the markets in which domestic ports compete. The FTC anticipates that enhancing competition in the industry would expand domestic economic activities, attract more investments, and improve the experience of businesses that use port and shipping services in Jamaica.

The industry carries out important economic activities by facilitating domestic cargo and transshipment cargo, and linking consumers and suppliers located across national boundaries. Regarding the regulatory framework guiding the sector, the FTC's initial competition assessment identified several pieces of secondary regulations which raises competition concerns by, among other things, creating a co-regulatory regime in which the regulator has oversight responsibilities over enterprises which it competes with.

The other impediments to competition identified include (i) sub-optimal port management and ownership structure; and (ii) inadequate oversight of vertical and horizontal integrations within the industry.

By March 2023, the FTC is scheduled to share the key findings of the competition assessment with key stakeholders to obtain their comments before finalizing the report.

Competition Advocacy

Land Surveyors Act

In March 2022, the Fair Trading Commission completed the *Sector Review: Competition Assessment of the Land Surveyors Act*. The assessment of the Act from a competition law perspective was influenced by an article in the Jamaica Gleaner on November 2, 2020 entitled "Old Boy's Club Comes Under Fire – Land Surveyors' Exams Fail Sniff Test as Students Hint at Corruption." The article indicated that student surveyors have been assigned unwarranted failing grades by the Land Surveyors Board. The examination process was also criticized as "corrupt and lacking transparency." The article levelled several other complaints against the Land Surveyors Board and the examination process. The Land Surveyors Board is empowered by the Land Surveyors Act 1944 and the Board has the sole responsibility for managing and controlling all examinations and professional education of candidates.

The assessment determined that that the Act raised two barriers to competition. Firstly, the Land Surveyors Board having the sole authority to permit the entry of persons in the profession may result in the limiting of the number of suppliers available to provide consumers with land surveying services. The Act stipulates the constitution of the Board and among the Board's members is also practicing surveyors. Accordingly, Board members are able to regulate the entry of potential rivals. Secondly, the role of the Board may result in the reduction of suppliers' incentives to compete by creating a co-regulatory regime. In particular as some Board members are practicing surveyors, there exists the opportunity to shield themselves from a potentially intense source of competition.

The primary affected product market is that for land surveyor services in Jamaica. Other markets downstream that may be affected includes civil engineering, construction, real estate and architecture services. The Report proffered several regulatory options to address the findings, among them is to take no action, revise the training and examination of trainees, revise the constitution of the Board, effective oversight of the Board's activities or abolish the mandatory Board certification system. The Report concluded that revising the training and examination of trainees and providing effective oversight of the Board's activities would generate the best economic outcomes (lower prices, higher quality) in the markets affected by the Land Surveyors Act.

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Spectrum repurposing

In August 2022, the Spectrum Management Authority (SMA) held consultations with several stakeholders including the Fair Trading Commission (FTC) in regard to its proposal to repurpose spectrum for mobile broadband use.

The SMA proposes to repurpose the 614-698MHz band. This band currently has the allocations — broadcasting, fixed and mobile (co-primary), meaning that service allocations for fixed and mobile (secondary services) are not protected from harmful interference from services designated under Broadcasting. As a result local cellular phone users using services such as LTE/5G cannot be introduced to this band as it now stands. The SMA therefore proposes changing the current allocation for this length of bandwidth to mobile (primary), fixed (secondary service) which will enable, inter alia, the introduction of LTE/5G in this band, allow new LTE/5G networks to be readily deployed in Jamaica as network equipment is available and align Jamaica with the United States of America and Mexico in respect of their usage of this length of bandwidth. Additionally the SMA proposes to have a fair and transparent policy for assigning the newly available spectrum.

To achieve the foregoing it is proposed that spectrum lots will be assigned by means of a revised Spectrum Screen where certain licensing conditions apply. The assignment of spectrum will take place by having qualified mobile network operators and interested applicants would have to apply for spectrum before a stipulated cutoff date and pay a predetermined minimum price for the acquired spectrum lots and migration cost for the Digital Terrestrial Television Broadcasting (DTTB) operator to vacate their current band.

The FTC agreed with most proposals and opined that repurposing the 600MHz band would result in clear benefits for competitors and consumers. The FTC also made the following main comments and observations: that it should be demonstrated that the repurposing of the 600MHz band and allocating it to mobile broadband services is the best utilization of this scarce spectrum resource; and that two mobile network operators is not considered to be enough for competitive purposes as this was more susceptible to coordinated conduct.

"Competition law generally aims at preventing private restrictive business practices that significantly lessen competition, reduce consumer welfare, and result in inefficient use of resources. However, competition may be lessened significantly by various public policies and institutional arrangements as well. Indeed, private restrictive business practices are often facilitated by various government interventions in the marketplace. Thus the mandate of the competition office extends beyond merely enforcing the competition law. It must also participate more broadly in the formulation of its country's economic policies, which may adversely affect competitive market structure, business conduct, and economic performance. It must assume the role of competition advocate, acting proactively to bring about government policies that lower barriers, promote deregulation and trade liberalization, and otherwise minimize unnecessary government intervention in the marketplace."

The World Bank, OECD: A Framework for the Design and Implementation of Competition Law and Policy, 1998.

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FTC 20th Shirley Playfair Lecture

Mr. John Mahfood, President
Jamaica Manufacturers and Exporters Association

THE FTC hosted its 20th Shirley Playfair Lecture on December 1, 2022, at the Terra Nova All Suite Hotel in Kingston, Jamaica.

Mr. John Mahfood, President of the Jamaica Manufacturers and Exporters Association (JMEA) presented the Lecture under the theme *"Navigating the impact of supply chain disruptions: a business sector perspective".* Mr. Mahfood began by explaining several challenges caused by the COVID-19 Pandemic, including the ordering and shipping of raw materials and logistics-related difficulties. For example, shipping costs increased fourfold, shipping routes were changed, and there was a shortage of containers and longer shipping duration.

He also explained several initiatives his company, Jamaica Teas Limited, and other manufacturers used that allowed companies to operate profitably during the pandemic and increase output about a year into the pandemic. He described instances where manufacturers increased their sales to the United States because shipping costs from Jamaica were significantly lower than shipping costs from the far east countries. The lower shipping costs resulted in Jamaican manufactured goods being cheaper than similar goods from far east countries.

He noted that Jamaica fared better than many small, vulnerable nations because Jamaica's macroeconomic policies, which have been focused on stability, debt reduction, and maintaining significant foreign exchange reserves, have been good for the past nine years.

Mr. Mahfood briefly explained current challenges and opportunities for manufacturers, referring to facilities offered by the JMEA and the Ministry of Industry Investment and Commerce (MIIC) and the potential to increase exports to other CARICOM member states. Additionally, he offered suggestions to manufacturers for maintaining a healthy operation primarily through greater interaction with raw materials and service suppliers along the supply chain.

In her remarks from the MIIC, Mrs. Sancia Bennett-Templer, Permanent Secretary, described several initiatives of the MIIC and its Agencies targeted at producing substantially higher exports, facilitating the manufacturing sector, growing employment, and increasing investments. Additionally, she explained the Ministry's thrust to nurture

Mrs. Sancia Bennett-Templer, Permanent Secretary
Ministry of Industry, Investment and Commerce

the business environment and create a business-friendly climate by implementing policies geared at improving and increasing private direct investment and digitizing processes.

An informative Question and Answer Session followed the Lecture, where Mr. Mahfood and Mrs. Bennett-Templer fielded questions and responded to comments from the audience.

The issues discussed included the benefits of using Jamaica's Special Economic Zone (SEZ) regime; the Government of Jamaica's thrust to create diverse SEZs on lands in St. Catherine and on the North Coast; capacity building facilities being offered by several of the Ministry's Agencies to small and medium-sized businesses.

From a manufacturers' perspective, there were discussions on investing in manufacturing goods that are not presently being manufactured in Jamaica; manufacturers should consider focusing on other markets to grow their business; and retooling to operate on several shifts towards increasing output and exporting to new markets.

In his closing remarks Mr. David Miller, Executive Director of the FTC, noted that this was the third occasion that the President of the JMEA had presented the Shirley Playfair Lecture. He thanked Mr. Mahfood and the JMEA for continuing to partner with the FTC on initiatives aimed at building Jamaica's competition culture and facilitating business.

The Lecture was carried live on the Jamaica Information Service and the MIIC's Youtube channels, as well as on the FTC's Facebook. Additionally, a recording of the Lecture is posted on the FTC's Website: https://jftc.gov.jm/news-events/shirley-playfair-lecture/**.**


From left: **Mr. David Miller; Mrs. Susan Lawrence-Simms, Senior Legal Counsel - FTC; Mr. Mahfood**

Mr. Robert Collie, Deputy Chairman - FTC

Keeping Jamaica's logistics sector resilient in light of global supply chain backlogs

Contributed by **Jamaica Special Economic Zone Authority**

GLOBAL supply chains have experienced substantial interruptions throughout the years due to a variety of factors, including geopolitical crises, natural catastrophes, pandemics, and even cyberattacks. These factors not only pose risks but have destabilized supply chains globally. The significance of these impacts is better understood by looking at the very definition of supply chain. A supply chain is defined as an "entire system of producing and delivering a product or service, from the very beginning stage of sourcing the raw materials to the final delivery of the product or service to end-users." (*Supply Chain - Overview, Importance, and Examples*, 2022)

Over the past two years the Covid-19 pandemic, as well as the Ukraine-Russia war, have significantly impacted the global supply chain's continuous flow causing disruptions, economic fallouts, and even extreme backlogs at the ports. Shipping timetables had to be adjusted, major ports were overbooked, and ships were left on anchor for days. This resulted in increased expenses, shortages, and additional delays in manufacturing and processing.

From the Jamaican perspective, several companies have been affected by the global supply chain's backlogs. A number of these companies fall within the manufacturing sector as they could not receive the raw materials needed for production or to meet the demand of their just-in-time inventory. In an article published in the Sunday Gleaner December 2021, a broker who requested anonymity stated that "Goods are sitting on the wharf two, three weeks without being stripped." This presents an opportunity for logistics service providers in Jamaica as there have been high demands for this service prior to, during and after the COVID-19. Jamaica, namely Kingston Harbour, is a transshipment (the movement of cargo or a container from one vessel to another while in transit to its destination) hub, taking advantage of our geographical positioning. With constant COVID-19 resurgences in some parts of Asia which caused lockdowns, some shipping companies, logistics providers, and ports struggled to keep up with an increased supply and demand. This saw freight rates increase by as much as 600% which forced some businesses to lower their sales projections as delivery delays had negative impacts on business (Titus, 2021). This has also presented an opportunity to establish links closer to the manufacturing location.

It is important to note that both major ports on the island are Special Economic Zones – Kingston Freeport Terminal and Kingston Wharves. Special Economic Zones (SEZs) are generally defined as "geographically delimited area, usually physically secured (fenced-in), single management/administration, eligibility for benefits based upon physical location within the zone, separate customs area (duty-free benefits) and streamlined procedures (Akinci et al, 2008) ". SEZs, despite being designed as trade catalysts within the Jamaica Logistic Hub Initiative also suffered along with other stakeholders due to the connective nature of the global supply chain. However, SEZs through their duty-free fiscal benefits and other logistic advantages allows for greater flexibility which can be used to mitigate against future disruption in supply chains through the postponement model. This is where there is a 'pause' in the supply chain cycle where the zones act as warehouses to store the goods that are needed as input into production. This, accompanied with Jamaica's location makes the country very attractive for nearshoring, reshoring and friend-shoring in the Latin America and Caribbean (LAC) region which Inter-American Development Bank (IDB) estimates could add an additionally USD $78 billion ($64 billion in goods and $14 billion in services) annually to LAC exports. The IDB estimates that Jamaica, using its SEZs and domestic linkages, will allow the country to tap into export potential of USD $138.5 million in goods exports.

Coming out of the **Annual International Conference and Exhibition (AICE) 2022** panel discussion on "Shaping the future of supply chain resilience" there were a few ideas that were tabled on how to keep the logistics sector resilient considering the recent fallouts with the global supply chain. These include implementing supply chains that are more dynamic and adaptable to change. This means improving on the current lean and just-in-time models to include a slack capacity to improve a company's operational efficiency and broaden perspectives to measure the realized potential output. This could easily be enabled using postponement business model in Jamaican SEZs.

It is evident that global supply chains are not static and will evolve with time given the rapid changes in globalization. Global trade has been, since the dawn of time, the focus for improving a country's economy. Due to the stark rippling effects faced by global supply chains over the past two years they must pivot to withstand shocks which is ultimately inevitable in keeping Jamaica's logistics sector resilient. The use of SEZs plays a pivotal role in Jamaica's economy as the Logistics Hub Initiative is being implemented to have "globally competitive firms thrive, driving unprecedented growth and development for a logistics-centered Jamaican economy."■


MONTEGO BAY SPECIAL ECONOMIC ZONE

Managing inflation and its impact on consumer welfare

Contributed by the **Bank of Jamaica**

ON the heels of a global pandemic, consumers in Jamaica and right across the globe, have in recent months been further burdened by rising prices. Globally, inflation has been climbing due to global supply chain imbalances and rising international commodity prices, exacerbated by the Russia/Ukraine conflict. As general prices rise, so does the anxiety of consumers given the adverse impact on their purchasing power and welfare. It is important that the public understands the role that Bank of Jamaica (BOJ) plays in fighting inflation.

Inflation is the rate of change in the general price level of goods and services in the economy over time. The Bank focuses on the annual point-to-point change in the Consumer Price Index (CPI) measure inflation as it helps to smooth out the impact of seasonal factors and short-lived swings in prices. The CPI is measured by the Statistical Institute of Jamaica (STATIN) on a monthly basis and captures the movement of prices of a specified basket of consumer goods and services.

What is the impact of inflation on the welfare of consumers? Well, inflation essentially reduces the purchasing power of our money by cutting the amount of goods we can purchase with a given amount of money. High inflation is a major enemy of the poor, especially those without assets and those on fixed incomes, such as pensioners. Too much inflation can also slowdown economic growth as financial investors will demand an inflation risk premium, resulting in higher interest rates, thereby lowering real investment activity and consequently economic growth. Since everyone uses money, everyone stands to lose in a high inflationary environment.

Bank of Jamaica has a critical role to play in promoting an environment of low and stable inflation. Under the Bank of Jamaica (Amendment) Act 2020, the primary objective of the Bank was amended to ensure the maintenance of price and financial system stability, with priority given to maintaining price stability. The Government has set a medium-term inflation target of 4 to 6 per cent. Inflation within this target range will facilitate economic growth, promote job creation, increase productivity while reducing Jamaica's public debt burden to sustainable levels.

The main tool used by BOJ to influence inflation is the Bank's policy interest rate, which is the interest rate that BOJ pays to deposit-taking institutions on account balances held at the Bank. Movements in this rate signal the Bank's policy posture, as a decline in the policy rate should influence a lowering in market interest rates and support higher growth. The reverse is true as a tightening or increase in the policy rate is aimed at 'cooling down' demand in the economy and slowing the pace of exchange rate depreciation, thereby lowering inflation. Other policy tools used by the Bank include open market operations and changes to reserve requirements to manage the money supply as well as communication and forward guidance to influence public's inflation expectations.

Since August 2021, the inflation rate in Jamaica has been trending above the Bank's target range primarily influenced by significant increases in international commodity and shipping prices. While BOJ has no control over changes in these external prices, the Bank attempts to influence how past price increases impact the economy going forward and has taken strong actions. Over the period October 2021 to August 2022, the Bank actively reduced its monetary accommodation using a suite of measures, including raising its policy interest rate cumulatively by 550 basis points to 6 per cent. Other policy actions taken included containing the amount of Jamaican dollar liquidity expansion in the system and providing forward guidance.

The Bank was also purposeful in maintaining relative stability in the foreign exchange market by intervening more aggressively to augment US dollar supplies to the market and adjusting the net open position limits for deposit-taking institutions. If the foreign exchange market had been left unattended in the highly uncertain economic environment, it would have carried the risk of significant volatility in the exchange rate and consequently even higher inflation than we have been experiencing.

These actions altogether were aimed at limiting the second-round effects of the increases in commodity prices and managing inflation expectations. Without these actions, imported inflation and hence the final prices faced by consumers would have been much higher.

Already, it is apparent that the policy actions taken by the Bank have begun to bear fruit as the direction of inflation as reported by STATIN has started to trend downwards. Having peaked in April 2022 at 11.8 per cent, annual inflation at May and June were both 10.9 per cent, followed by 10.2 per cent at July and August. Looking ahead, the Bank expects that inflation will continue to gradually decline and return to the inflation target towards the end of 2023, so long as tensions between Russia and Ukraine do not escalate and inflation among Jamaica's trading partners continues to fall.

The sharp rise in the prices of goods and services and the adverse impact on households and firms is a major concern for Bank of Jamaica. The Jamaican public can be assured of BOJ's commitment to its mandate to ensure that inflation returns to its target range and remains low, stable and predictable. We expect that the monetary policy actions taken, along with the recent and anticipated declines in international commodity prices, will cause inflation to normalize to the target range of 4 to 6 per cent by the end of 2023.■

Provisions of the Fair Competition Act aga

Section 18

(1) For the purposes of this Act, a provision of an agreement is an exclusionary provision if —

a) the agreement is entered into or arrived at between persons of whom any two or more are in competition with each other; and

b) the effect of the provision is to prevent, restrict or limit the supply of goods or services to, or the acquisition of goods or services from, any particular person or class of persons either generally or in particular circumstances or in particular conditions, by all or any of the parties to the agreement or, if a party is a company, by an interconnected company.

(2) For the purposes of subsection (1), a person is in competition with another person if that person or any interconnected company is, or is likely to be or, but for the relevant provision, would be or would be likely to be, in competition with the other person or with an interconnected company, in relation to the supply or acquisition of all or any of the goods or services to which that relevant provision relates.

(3) No person shall give effect to an exclusionary provision of an agreement.

Section 22

(1) It is unlawful for any two or more enterprises, being suppliers of goods, to enter into or carry out any agreement by virtue of which they undertake —

a) to withhold supplies of goods from dealers (whether parties to the agreement or not) who resell or have resold goods in breach of any condition as to the price at which those goods may be resold;

b) to refuse to supply goods to such dealers except on terms and conditions which are less favourable than those applicable in the case of other dealers carrying on business in similar circumstances;

c) to supply goods only to persons who undertake or have undertaken to do any of the acts described in paragraph (a) or (b).

(2) It is unlawful for any two or more enterprises referred to in subsection (1) to enter into or carry out any agreement authorizing —

a) the recovery of penalties (however described) by or on behalf of the parties to the agreement from dealers who resell or have resold goods in breach of any such condition as described in subsection (1) (a); or

b) the conduct of any proceedings in connection therewith.

Section 23

(1) It is unlawful for any two or more enterprises, being dealers in any goods, to enter into or carry out any agreement by which they undertake —

(a) to withhold orders for supplies of goods from suppliers (whether parties to the agreement or not)

(i) who supply or have supplied goods without imposing such a condition as is described in section 22 (l) (a); or

(ii) who refrain or have refrained from taking steps to ensure compliance with such conditions in respect of goods supplied by them; or

(b) to discriminate in their handling of goods against goods supplied by those suppliers.

(2) It is unlawful for any two or more enterprises referred to in subsection (1) to enter into or carry out an agreement authorizing —

(a) the recovery of penalties (however described) by or on behalf of the parties to the agreement from the suppliers referred to in subsection (1); or

(b) the conduct of any proceedings in connection therewith.

Section 24

Sections 22 and 23 apply in relation to an association whose members consist of or include—

(a) enterprises which are suppliers or dealers in any goods; or

(b) representatives of such enterprises, as they apply to an enterprise.

Section 35

(1) No person shall conspire, combine, agree or arrange with another person to-

(a) limit unduly the facilities for transporting, producing, manufacturing, storing or dealing in any goods or supplying any service;

(b) prevent, limit or lessen unduly, the manufacture or production of any goods or to enhance unreasonably the price thereof;

(c) lessen unduly, competition in the production, manufacture, purchase, barter, sale, supply, rental or transportation of any goods or in the price of insurance on persons or property;

(d) otherwise restrain or injure competition unduly.

(2) Nothing in subsection (1) applies to a conspiracy, combination, agreement or arrangement which relates only to a service and to standards of competence and integrity that are reasonably necessary for the protection of the public—

(a) in the practice of a trade or profession relating to the service; or

(b) in the collection and dissemination of information relating to the service.

Section 36

(1) Subject to subsection (2), it is unlawful for two or more persons to enter into an agreement whereby-

(a) one or more of them agree or undertake not to submit a bid in response to a call or request for bids or tenders; or

(b) as bidders or tenderers, they submit, in response to a call or request, bids or tenders that are arrived at by agreement between or among themselves.

(2) This section shall not apply in respect of an agreement that is entered into or a submission that is arrived at only by companies each of which is, in respect of everyone of the others, an affiliate.

Inflation, Competition and Consumer Welfare

By **Dr. Samuel Braithwaite** | Lecturer | University of the West Indies, Mona

INFLATION will always be with us. Inflation is normal and expected in a growing economy. In fact, economies with higher levels of economic growth are expected to have higher levels of inflation. Inflation is bad when it is unpredictable and high. Further, not everyone loses from inflation: borrowers gain while lenders lose. Inflation reduces the purchasing power of money and is regarded as the overall increase in the price of a predetermined basket of goods and services.

Workers are worse off with inflation as their incomes most often do not keep pace with price increases. Take a simple example, if the goods and services a person buys increases from $1000 to $1100, a 10 per cent increase, but salaries increase by 5 per cent, then that person will have to cut back on the goods and services he or she buys. For the worker who is already unable to meet all her needs, inflation further erodes the purchasing power of her already meagre income, decreasing her already low standard of living. During periods of inflation there is also the phenomenon of "shrinkflation" where a customer pays the same price for a product, but the product is not of the same quality or quantity.

For those pensioners whose pensions are tied to the income they were receiving at the time of their retirement, inflation can be devastating. It is therefore important that when planning for retirement careful consideration is given to investments in assets which are more likely to keep pace with inflation. Real estate is one such investment as house prices generally keep pace with inflation, sometimes exceeding it. The stock market also offers investment options which will keep pace with inflation, such as stocks in firms which produce items which consumers must buy; food producing firms are generally safe bets.

Intuitively, the higher the level of competition in an industry the lower the inflationary pressures on the goods produced in that industry. In the case of the utilities industry, where firms are effectively monopolies, we have the Office of Utilities Regulation (OUR) through which firms, such as JPS, must seek approval before increasing prices. Beyond direct regulation, government policy can indirectly affect competition and consumer welfare.

So how do we deal with inflation? Do we increase incomes to keep pace with inflation? This may seem logical, obvious even, but increasing income is not as straightforward as it seems. Indeed, the authorities -The Ministry of Finance & The Public Service and the Bank of Jamaica (BOJ) - are generally concerned about preventing a wage price spiral. In other words, excessive wage increases which are not matched by an increase in real GDP, real output, or an increase in productivity, can lead to excessive levels of inflation, which can spiral out of control as expectations about future inflation remain elevated and firms price their goods and services accordingly. Of course, even if it wanted to, the Government of Jamaica is unable to significantly increase wages.

Instead of significant wage increases by the fiscal authority, the monetary authority, the BOJ, increased its policy interest rate to lower the expectations of firms about future inflation. The BOJ's inflation target range of 4 – 6 per cent provides an anchor for the inflation expectations of firms. The BOJ does regular surveys of firms to gauge their expectations about future inflation. During the latter part of 2021 the BOJ started to incrementally increase its policy interest rate to bring inflation expectations back within its target range. The actions of the BOJ are geared toward fighting what economists call *demand-pull* inflation; one of the two primary causes of inflation. Recognizing that a significant portion of the inflation facing Jamaica in 2021-2022 was determined by external factors the BOJ's efforts were geared towards reducing demand to dampen second round inflationary effects.

There is broad agreement that the BOJ needed to increase its policy rate after leaving it at 0.5 per cent for about two years, and rightly so given the novel coronavirus pandemic. However, the successive incremental increases, the uncertainty surrounding future policy rate increases, and the level of the policy rate (6 per cent as of August 2022) have caused much consternation among firms, especially as domestic inflation in 2021 and 2022 was largely driven by factors external to Jamaica. The BOJ remained adamant that their actions are not likely to cause a recession, but a slowing down of economic activity was inevitable. A higher policy rate translates into higher rates for loans from commercial banks, this means that firms, especially Micro, Small and Medium Enterprises (MSMEs), will find it increasingly difficult to finance their operations, increasing the probability of closures. Closures reduce the level of competition and give remaining firms greater power to increase prices. For those firms whose doors remain open their operating costs will be higher as the costs of servicing loans are higher. To cover these increased interest costs, they will seek to increase their prices where possible.

Jamaica, a small island developing state, is highly open to international trade and has no influence over commodity prices such as oil, wheat, and corn. Jamaica is a price taker; it is too small to influence international prices. Further, Jamaica is vulnerable to external shocks such as disruptions to global supply chains brought on by the novel coronavirus, and disruptions in the crude oil and wheat markets due to the Russia-Ukraine war. These external issues contributed to the second primary cause of inflation, *cost-push* inflation. Jamaican manufacturers import much of the raw materials used in their manufacturing processes so increases in commodity prices increase their production costs ultimately increasing the prices they charge for their goods.

In recent times, firms such as the Jamaica Broilers Group and KFC have reduced the price for their products. Jamaica Broilers highlighted three reasons for why they were able to reduce the prices for their products: improved global market conditions such as stability in the grain market, reductions in shipping costs and the stabilization of the Jamaican Dollar. Of these three reasons, the Jamaican authorities, the BOJ to be specific, can only control the value of the Jamaican Dollar. This is important as without having to worry about a depreciating Jamaican Dollar, firms have more space to be competitive in their pricing decisions. Indeed, due to the "perennial" lack of confidence in the stability of the Jamaican Dollar, Jamaican firms have been known to over-compensate when increasing prices. For example, if the general expectation is that the Jamaican Dollar will depreciate by three per cent, then Jamaican firms will increase prices to accommodate for a depreciation of more than three per cent.

In sum, Jamaica's macroeconomic is encouraging, not because the BOJ has shown it can pull the interest rate lever, but because it is independent of the executive arm of government and as such cannot be coerced into printing money, which is inflationary. Additionally, by keeping the exchange rate relatively stable the BOJ can anchor the expectations of firms about future inflation, notwithstanding external shocks of course.■

The role of competition authorities in promoting competition in times of high inflation

Contributed by **Trinidad and Tobago Fair Trading Commission**

JUST as the world was recovering to its pre-pandemic levels of economic activity, a new and worrisome threat has emerged: Rising Inflation. This has led to a cost-of-living crisis in many countries where in most instances, wage levels have not kept up with rising prices thus resulting in a sharp fall in real disposable income, which ultimately has had deleterious effects on consumers. Unfortunately, the Caribbean has not been spared from these effects.

No economic guru has the prophetic hindsight to predict when this current wave of high inflation will end or which culprit is exactly responsible be it the Covid-19 pandemic, surging consumer demand, supply chain disruptions, the Russian invasion of Ukraine, soaring interest rates or rising energy prices. Hence competition authorities have been increasingly thrust into the spotlight as they are required to perform a delicate balancing exercise between stringent enforcement of competition law with policy measures implemented by national governments to address macroeconomic and fiscal issues caused by rising inflation.

Whilst competition enforcement is not usually heralded as a mechanism that is suitable to address short-term macroeconomic or monetary issues, it is generally accepted that a robust competition law regime can lead to a stronger and more stable economy in the long-term through more choices, lower prices and better quality of products or services.

> ... competition authorities in the execution of their functions should do so in a dual-fold manner: firstly, by advising the relevant Government Department/Ministry to strengthen and/or modify its trade, fiscal, monetary or industrial policies to incorporate competition provisions, and secondly, by prioritising investigations into businesses using rising inflation as a cloak for engaging in anti-competitive conduct.

In times of high inflation, competition authorities must thus be extremely vigilant in identifying and preventing anti-competitive practices such as:

- Collusive practices in particular price fixing;
- Predatory pricing and/or other exclusionary strategies; and
- Dominant companies charging excessive prices.

In this regard, competition authorities in the execution of their functions should do so in a dual-fold manner: firstly, by advising the relevant Government Department/Ministry to strengthen and/or modify its trade, fiscal, monetary or industrial policies to incorporate competition provisions, and secondly, by prioritising investigations into businesses using rising inflation as a cloak for engaging in anti-competitive conduct.

Moreover, the fundamental principle of competitive neutrality which states that all firms should compete on their merits and not benefit from undue advantages, for example, due to their ownership or nationality, should be endorsed by present and future governments. Additionally, national support to certain sectors and/or enterprises should be based on objective and transparent criteria.

The activities of competition authorities must also be bolstered by their regulatory counterparts responsible for promoting and enforcing competition in their respective sectors. This collaboration can take the form of joint advocacy and sensitisation sessions to raise awareness of the reasons and justifications for price increases, the factors leading to excessive concentration of a particular industry, abuse of market power and its effects and how businesses can comply with competition laws while at the same time ensuring that their coping strategies in reaction to high inflation do not seek to exploit consumers and competitors.

Competition Authorities continue to remain steadfast in their drive to address the concerns of high inflation through the issuing of tailored advice to the general public and by having a plethora of meetings to highlight the importance of increased competition in these economically turbulent times.

These aforesaid efforts have confirmed that the promotion of competition needs to increasingly take the form of targeted market sector inquiries into specific industries with significant roles in the supply chain or which are susceptible to high levels of inflation, for example food and beverage, transportation, energy and energy services. Additionally, competition authorities need to closely scrutinize potential mergers, in particular vertical mergers involving combinations of companies at different levels of the supply chain because of the potential of these combined companies creating and maintaining market power, either by coordinated or unilateral activity.

This heightened level of monitoring and assessment should be conducted with the objective being to identify abnormal trends in pricing shifts and in some cases to ensure that pricing shifts in certain markets are along the lines of which are reasonably predictable and justifiable given the nature of the global economic climate.

The Competition Commission in South Africa utilized this tool to address issues in the food sector. Their report revealed higher prices for chicken, wheat, beef, and vegetables among others with the Commission commenting that the current state of the food sector is concerning as the impact of such inflationary pressures is estimated to increase economic hardship in particular for the most vulnerable groups in society[1] with there being a commitment to continually monitor.

Another tool in a competition authority's armoury in times of high inflation is that of legislative amendments. An example of this being in Canada where the Competition Act was amended to include the digital economy and to also give The Competition Bureau Canada enhanced powers to deal with instances of wage-fixing and no-poach agreements.[2]

Additionally, efforts include in the United States of America where the Biden administration has sought to strengthen the Federal Trade Commission's authority and ability to enforce competition policies, especially in sectors where there has been *"less competition and more consolidation"*[3] as part of efforts to ensure that rising inflation is not a result of and/or is being made worse by anti-competitive activity.

In the Caribbean region, competition authorities have engaged in market monitoring, stakeholder sessions, training, etc. to educate and encourage stakeholders on the benefits of a competition-rich market.[4]

It is clear that increased collaboration and cooperation among competition agencies should be encouraged. As an example alliances to monitor and investigate suspected anti-competitive behaviour impacting global supply chains such as that made between the Competition Agencies of the United States, Canada, Australia, New Zealand, and the United Kingdom will likely increase moving forward.

In closing, competition law and policy are not a panacea for high inflation, nor can competition authorities seek to tame rising inflation. Competition should however be viewed as a fundamental necessity for driving economic growth and recovery with competition authorities being mindful of governmental policies and business activities that may increase economic inefficiencies and worsen the effects of inflation and subsequently act accordingly bearing in mind the goals and objectives of competition. ■

Endnotes

[1] https://www.compcom.co.za/wp-content/uploads/2022/03/EFPM-Report_Mar-2022.pdf.

[2] https://www.canada.ca/en/competition-bureau/news/2022/05/building-a-more-competitive-canada.html

[3] https://thehill.com/opinion/finance/3522812-abandoning-decades-of-antitrust-precedent-wont-reduce-inflation/

[4] http://tandtftc.org/press-releases/

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MINISTRY OF INDUSTRY INVESTMENT & COMMERCE

Inflation and the Consumer:

Is there a need for Government intervention?

By **Racquel White** | Director of Research | Consumer Affairs Commission

Inflation in Jamaica

THE Statistical Institute of Jamaica (STATIN) indicate that inflation was recorded at 19.3% between April 2020 and August 2022. During the period April 2020-April 2021, the inflation rate was 3.8%. However, for the April 2021 to April 2022 period, an inflation rate of 11.8% was observed. The comparative difference between these two point-to-point rates can be explained by the devaluation of the Jamaican Dollar, the aftershocks of the coronavirus pandemic and the war between Russia and Ukraine which resulted in a rise in commodity and food prices, and a rise in shipping costs. The issue of inflation is an ongoing problem for smaller developing countries, where there are rapid increases in food prices, as these countries are less diversified, have a heavy reliance on imports, and have limited state resources to expand the existing social safety net. (Boz et al.,2022). The Bank of Jamaica (BOJ), Jamaica's independent central bank used inflation targeting as its primary anti-inflation strategy. This included setting specific inflation targets, while adjusting monetary policies, such as increasing policy interest rates, with a view to achieving price stability. Such measures, however, risk slowing down the economy and increasing unemployment and poverty (Van Loo, 2022).

Consumer Price Monitoring

In practice, the Consumer Price Index (CPI) is determined by the weighted average of the percentage price changes for a specified "basket" of consumer goods reflecting their relative importance in households (International Labour Organization, 2014). Since 2003, Jamaica, through the Consumer Affairs Commission (CAC), an agency of the Ministry of Industry, Investment and Commerce, has continuously monitored grocery and petroleum prices displayed at supermarkets and service stations respectively, located in 14 parishes across the island. The average percentage change for petroleum products and critical basic food items[1] between April 2020 and April 2021 was 10%. The subsequent point to point period of April 2021- April 2022 recorded an average percentage change of 39% and 28% respectively. Similar to the rise in inflation between April 2020 and April 2022, external global disruptions contributed significantly to the price increases during the same period. These disruptions affected commodity prices, led to a rise in shipping cost and freight charges; and as a result, the price of imported fuel and basic food items increased over the two periods.

Country Intervention/ Strategies

Although much of the current inflation resulted from the war in Ukraine and supply-chain disruptions in China, it has been postulated that market failures such as information asymmetry can contribute to higher levels of inflation. This is where key players do not have equal access to market information, thus impacting decision making. Information asymmetry diminishes the free market's ability to determine the price level which would lead to an efficient allocation of scarce productive resources, hence creating a market failure (Tarver, 2022).

During inflationary periods, consumers may not be aware of all the contributors to price increases and may continue to expect prices to rise, even when the structural factors that initially triggered price increases have changed. Consumer perception may therefore cause them to continue to expect high prices, resulting in them not demanding or seeking out providers with lower prices. In this way, "structural and psychological factors can combine to contribute to high levels of inflation" (Van Loo, 2022). Mandatory upfront pre-purchase pricing information and unit pricing (alongside the full purchase price) and price gouging laws that address extreme price hikes during crises are examples of price transparency laws that could reduce prices quickly. For example, to protect consumers from excessive pricing during the COVID-19 pandemic, both Houses of Parliament approved the Trade (Sale of Goods During Period of Declaration of Disaster Area) Order 2020, which came into effect on March 31. Under this measure, retailers found to be charging customers exorbitant prices for goods during the COVID-19 outbreak could be fined up to $2 Million for this breach.

During inflationary periods, consumers may not be aware of all the contributors to price increases and may continue to expect prices to rise, even when the structural factors that initially triggered price increases have changed. Consumer perception may therefore cause them to continue to expect high prices, resulting in them not demanding or seeking out providers with lower prices.

The CAC promotes market efficiency by providing consumers with information which contributes to competitive pricing for the benefit consumers. Through the Consumer Protection Act (2005), amended 2012, the government mandated the collection, compilation *and analysis of prices and availability of goods in relation to any trade or business* and for this to be published *"for the benefit of consumers, supplies and service providers"* (CPA (2005), S.6(1)(f)-(g). The CPA (2005) mandates that consumers must be given the price before purchase but does not require that the price be affixed to the product or shelf edge displays in supermarkets, nor does it require service stations to present fuel prices on display boards. This is a gap that improved price transparency laws could remedy.

Price transparency strategies have assisted in reducing prices during the 2008 "world food price in crisis", when the Government mandated the monthly publication of Consumer Alerts with traffic light indicators of red blocks being the highest and green block items of the lowest prices at select grocery outlets. The publication was intended to encourage merchants to lower prices (achieve more green and less red blocks) of basic food items and encourage consumers to practice comparative shopping. When evaluated after the first 12 months, it was revealed that consumers found the Consumer Alerts useful in their purchasing decisions, and that several supermarkets reduced their prices below the prices charged before the initiative.

It must be noted however that not all government interventions aimed at stabilizing prices have had the desired effect, such as the government's J$500 million Price Support Programme which was also implemented in 2008.[2] The objective of this three-month programme was to protect the most vulnerable by subsidizing the prices of selected basic food items. A review of the programme revealed that the non-compliance observed at some outlets was attributed to a lack of subsidy pricing from the primary distributors being passed through to retailers (CAC, 2008).

Conclusion

The impact of inflationary shocks in international markets are inescapable for developing countries, like Jamaica. However, policymakers' creativity and timing can ease some of the economic shocks based on the application of the tools chosen to address the problem (Van Loo, 2022). The impact of the recent pandemic, supply chain disruptions and a prolonged war has had a devastating effect in eroding the purchasing power of households at various income levels, especially the lower income and vulnerable groups. Consumer protection is of paramount importance when considering anti-inflation solutions. While proponents of the free-market economy advocate that the market should be allowed to correct itself and therefore requires little government intervention, the advocates of consumer's rights and responsibilities support international best practices. The global consumer protection movement supports the advancement of the economy, through a triangular relationship of consumer protection, underpinned by government policies and regulations aimed at improving markets and facilitating trade and innovation, particularly where markets may fail.

The CAC recommends that the evaluation of the benefits to the most vulnerable should include market improvement laws, industry regulations and binding codes of conduct aimed at improving quality and price transparency while fostering competition. This will improve the consumer's information when making purchasing decisions and result in stabilized or lower prices. Confident consumers take risks and are more engaged in the process of driving competition and business innovation (OECD, 2010) through demand. As the primary agent of the government's consumer protection programme, the CAC's research-driven interventions in consumer markets will seek to address market anomalies such as information asymmetry. It is expected that the resultant market efficiency and increased competition will redound to acceptable inflation projections and thereby a stable and stronger economy.■

Endnotes

[1] The CAC's basket of critical food items comprises hard dough bread, chicken, cooking oil, corned beef, cornmeal, rice, sugar, counter flour, dried salted fish, condensed milk, milk powder, sardines, and mackerel. These are the highest weighted food items in STATIN's Food and Non-Alcoholic Beverages category in the Consumer Price Index.

[2] The Price Support Programme was implemented in January 2008 to March 31, 2008.Under the programme, major producers and distributors of the five basic food items under the programme (bulk counter flour, white rice, and cooking oil, bread and water crackers) were paid monies to mitigate against rising costs and thereby keep the price of the selected items stable.

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Regulating prices in an inflationary environment

Contributed by the Staff of the **Barbados Fair Trading Commission**†

AS a net-importer, Barbados relies heavily on imported commodities both for public consumption and for inputs into production processes. However, global issues such as the COVID-19 pandemic, the March 2021 Suez Canal blockage, and more recently, Russia's invasion of Ukraine have caused disruptions in the global supply chain. These disruptions have resulted in rising food prices and a shortage of some commodities, which amongst other phenomena has reduced the purchasing power of Barbadian consumers (Brathwaite, 2022).

The trickle-down effects of these cumulative events for small, open economies such as Barbados, have been severe. This is evidenced by the numerous local companies that are experiencing supply-chain issues and increasing operational costs (Deane, 2022; Madden, 2022). It was therefore incumbent upon local policy makers to use the tools at their disposal to respond to these issues. To that end, the Government of Barbados has implemented some measures to help mitigate these effects.

In May 2022, Barbados's sole feed manufacturer increased its feed prices by approximately 8 per cent. It was reported that the price increase was attributed primarily to a global rise in the cost of the raw materials (*i.e.,* corn, soybean), resulting from the ongoing Russia-Ukraine war; as well as from the adverse effects of climate change in South America (Bennett, 2022). The Barbados Fair Trading Commission (BFTC) is cognizant that increases in cost cannot be internalised by businesses indefinitely and will be eventually passed on to the consumer. However, one is of the opinion that any pass-through should be commensurate with the economic realities of the business in question. It is on this basis that, notwithstanding the current economic conditions, more than a cursory interest should be taken in this matter to determine whether the price increases are justifiable. The interest is also likely aligned with an initiative advanced by the Minister of Agriculture and Food Security to reduce the local cost of animal feed. This initiative

†Justin Perch, Shane Nicholls, Nikita Mayers, Dr. Troy Waterman | Fair Competition Department, Barbados Fair Trading Commission

in their April 2022 electricity bills (BL&P, n.d.). To combat this increase in residential electricity costs, the GoB intervened to reduce the VAT rate from 17.5 per cent to 7.5 per cent for the first 250 kilowatt hours for a six-month period (Barbados Today, 2022a).

The Government, in acknowledging the issues highlighted above, signed a social compact[3] with the Barbados Private Sector Association, and representatives from the Trade Union Movement (BGIS, 2022). This measure entails a price reduction on 47 basic items for a six-month period; Value Added Tax (VAT) removal on several items; the removal of duty from citrus items (*e.g.*, orange, lemon, and limes); and a price reduction on selected chicken products. While the specific details of these measures have not been disclosed, an assumption can be made that the participating businesses were incentivized by the Government to reduce their prices for the specified time. The broad idea here is that the cost savings realized by the participating businesses should ultimately be passed on to consumers at retail, thereby providing some relief to consumers by increasing their purchasing power in certain categories of products.

These examples presented above, articulate the difficulty in regulating prices while maintaining a healthy competitive environment in this current climate. A paradox is created in this regard. Hence, the ensuing regulation of prices requires a careful balancing act as policy makers are called upon to use a variety of tools to shield consumers from the high cost of living while allowing businesses the flexibility to survive in this inflationary environment. ■

involves the establishment of a grain hub where cheaper feed inputs can be sourced from South American markets thereby potentially lowering the price of feed (Igraham-Carter, 2022).

For the period January to June 2022, Barbados's fuel import bill stood at $634.3 million (The Sunday Sun, 2022). This figure represented almost twice the total cost of fuel imports for the same period in 2019[1] and was similarly attributed to the ongoing war between Russia and Ukraine. Since fuel is an important supply chain input, the observed oil price volatility can escalate the cost of goods and services. The Government of Barbados (GoB) controls fuel prices through the Miscellaneous Control Act CAP. 329. In response to the oil price volatility[2], the GoB capped the cost of gas and diesel at $4.48 and $4.03 respectively for a five-month period (Barbados Today, 2022b).

This upsurge in fuel costs has also impacted the operations of the Barbados Light and Power Co. Ltd. (BL&P) which is the country's sole electric utility company. The BL&P announced that consumers will experience a notable increase

Endnotes

[1] Barbados' fuel import bill for January to June 2019 was $384.6 million (see Central Bank's CBBWEBSTATS). 2020 and 2021 were considered anomalies and therefore were not considered.

[2] See: https://www.nasdaq.com/market-activity/commodities/cl:nmx

[3] A social compact is a partnership between the public and private sector which seeks to aid in the growth and development of the nation (Springer, 2001).

The significant impact of competition law on supply chain resilience

By **Carlton Thomas** | Competition Analyst | Jamaica Fair Trading Commission

IN recent times, supply chain resilience has been emerging as a competitive differentiator amongst players within the supply chain ecosystem. Now more than ever, competition authorities should consider the significant impact of competition law on the effective and efficient operation of global supply chains.

Supply chain resilience is best described as the ability of a supply chain to efficiently combat disruption and minimize the effects of upheaval on revenues, cost, and customers. Therefore, resilient supply chains will consist of businesses that are able to quickly counter disruptions in markets, economic crisis and technological change as well as enabling businesses to gain a competitive advantage.

However, global value chains are currently experiencing a wave of disruptions that challenge this resilience. These disruptions include a series of events such as the COVID-19 pandemic, the temporary blocking of the Suez Canal and the outbreak of the Russia-Ukraine war. As a result, there has been an acute increase in energy prices and significant increase in freight charges, which has been intensifying the global food crisis and causing other adverse economic effects. The totality of these events is a sound reminder of how economies heavily rely on integrated and frequently, vulnerable supply chains.

Consequently, for integrated global supply chains to function as a source of resilience there must be international economic co-operation which utilizes the full range of instruments, institutions and mechanisms to develop the supply chain ecosystem, in particular, competition law.

One of the major driving forces behind the emergence of just-in-time supply chains is the intensification of global value chain competition. However, in various value chains, it is argued that excessive competition causes businesses to reduce inventory, eliminate redundancies and cut back on contingency to reduce costs and maximize efficiency. Surprisingly, those inventories, redundancies and contingencies are what supply chains need to withstand sudden changes in the economic climate.

Excessive competition can therefore create the illusion of efficiency that undermines the capacity of businesses to create safety buffers which result in severe disruption within the supply chain. Considering these situations, competition policies become extremely important to identify such sectors that pose a risk of excessive competition and applying the necessary policies to remedy the situation.

Also, on the contrary, supply chains that lack competition will find competition law very useful. By promoting strong market competition, coupled with the rules necessary to ensure a level playing field, this will assist to address distortions that can lead to the accumulation of vulnerabilities to economic shocks, while at the same time, encouraging business and transformation through innovation and *de novo* entry.

In various cases, supply chain resilience could be improved

by the relaxation of competition law with the prospects of businesses fostering collective action to address various problems or externalities. In a response to the supply chain disruption caused by the COVID-19 pandemic, competition authorities in Europe agreed to lessen the enforcement of competition law in various instances. Authorities such as the German Bundeskartellamt, the European Commission and the Competition and Markets Authority temporarily relaxed the application of competition rules to enable businesses to join forces with a view of overcoming shortages of essential products and develop coordinated responses to mitigate supply chain disruptions.

In addition, in 2021 the government of the United Kingdom (UK) temporarily suspended the application of competition law to the fuel industry to ease supply chain issues and shortages. The UK government also granted temporary exemption from competition law to parts of the Carbon Dioxide production industry to allow industry members to share information and help prioritise deliveries to industries that require it the most such as the food sector. This further demonstrates the practical implementation of competition policy relaxation.

To summarize, there is a complex relationship between supply chain resilience and competition. Despite the fact that competition law cannot easily address the shortcomings of supply chains, policy reforms can help to alleviate these shortcomings, strengthen bonds between businesses and consequently foster a more resilient supply chain. In some instances, to foster high supply chain resilience necessitates the relaxation of competition rules while in other cases; this goal is best attained through enforcement.

Nevertheless, competition laws will have to be revised with the view of adapting to the development of multisided markets, to improve the protection and promotion of innovation in merger controls and to improve the capacity of competition authorities to address digital related issues. Therefore, policymakers face the difficult challenge of correctly diagnosing a given situation and then applying the most appropriate response. ■

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Eg. David (5 letters) add 3 = 8

The result is your KEY number (in the example, 8 is the key number)...what is your KEY number?_____

Step 2: Start at the upper left corner and check the letter associated with each of your key numbers, reading in each row from left to right.

8	2	5	2	7	4	6	5	7	9	4	7	5
L	C	C	O	I	B	S	O	N	L	E	N	M
3	7	2	8	5	7	4	8	6	3	5	6	7
M	O	L	O	P	V	T	W	A	O	E	Y	A
4	8	2	6	4	8	5	6	7	2	5	4	7
T	E	L	N	E	R	T	O	T	U	E	R	E
3	7	3	7	5	4	6	3	5	6	7	5	3
R	T	E	O	F	Q	T	C	A	O	B	I	H
7	8	2	4	6	3	4	8	4	7	2	7	8
E	P	D	U	A	O	A	R	L	G	E	R	I
7	2	5	8	4	7	2	3	2	5	6	2	3
E	I	R	C	I	A	S	I	R	L	B	U	C
4	8	5	7	2	6	3	6	2	4	6	8	3
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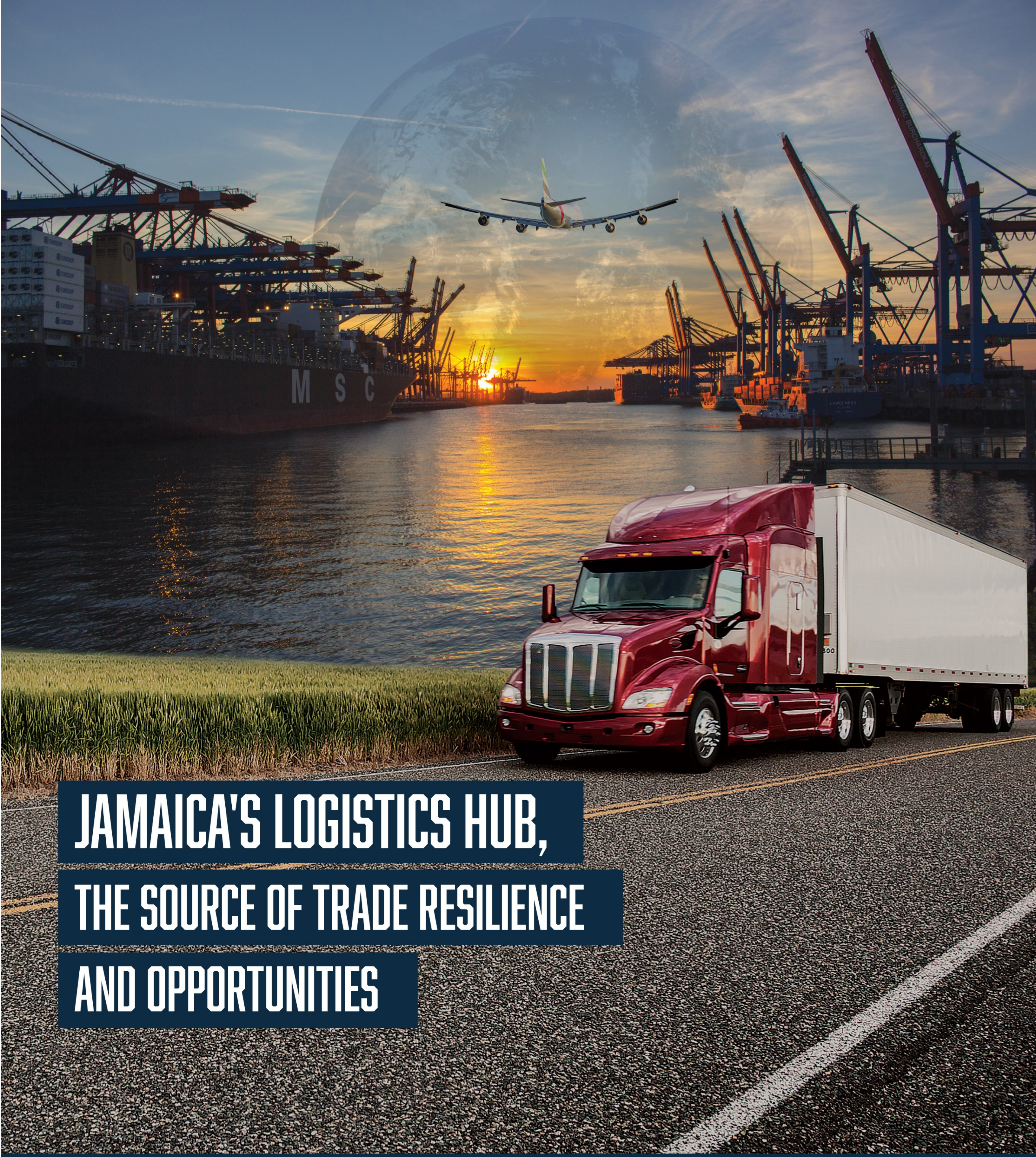

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